

As Introduced

**131st General Assembly
Regular Session
2015-2016**

H. B. No. 470

Representative Schuring

A BILL

To amend sections 109.57, 140.01, 1337.11, 2133.01, 1
2317.54, 3701.881, 3712.01, 3712.09, 3721.01, 2
3795.01, 3963.01, 4719.01, 4723.36, 4723.481, 3
4723.487, 4729.43, 4730.202, 4730.411, 4730.53, 4
4731.055, 4731.228, 4752.02, and 5119.34 and to 5
enact sections 3712.032, 3712.042, and 3712.052 6
of the Revised Code regarding licensure of 7
palliative care facilities. 8

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

Section 1. That sections 109.57, 140.01, 1337.11, 2133.01, 9
2317.54, 3701.881, 3712.01, 3712.09, 3721.01, 3795.01, 3963.01, 10
4719.01, 4723.36, 4723.481, 4723.487, 4729.43, 4730.202, 11
4730.411, 4730.53, 4731.055, 4731.228, 4752.02, and 5119.34 be 12
amended and sections 3712.032, 3712.042, and 3712.052 of the 13
Revised Code be enacted to read as follows: 14

Sec. 109.57. (A) (1) The superintendent of the bureau of 15
criminal identification and investigation shall procure from 16
wherever procurable and file for record photographs, pictures, 17
descriptions, fingerprints, measurements, and other information 18
that may be pertinent of all persons who have been convicted of 19

committing within this state a felony, any crime constituting a 20
misdemeanor on the first offense and a felony on subsequent 21
offenses, or any misdemeanor described in division (A) (1) (a), 22
(A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code, 23
of all children under eighteen years of age who have been 24
adjudicated delinquent children for committing within this state 25
an act that would be a felony or an offense of violence if 26
committed by an adult or who have been convicted of or pleaded 27
guilty to committing within this state a felony or an offense of 28
violence, and of all well-known and habitual criminals. The 29
person in charge of any county, multicounty, municipal, 30
municipal-county, or multicounty-municipal jail or workhouse, 31
community-based correctional facility, halfway house, 32
alternative residential facility, or state correctional 33
institution and the person in charge of any state institution 34
having custody of a person suspected of having committed a 35
felony, any crime constituting a misdemeanor on the first 36
offense and a felony on subsequent offenses, or any misdemeanor 37
described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of 38
section 109.572 of the Revised Code or having custody of a child 39
under eighteen years of age with respect to whom there is 40
probable cause to believe that the child may have committed an 41
act that would be a felony or an offense of violence if 42
committed by an adult shall furnish such material to the 43
superintendent of the bureau. Fingerprints, photographs, or 44
other descriptive information of a child who is under eighteen 45
years of age, has not been arrested or otherwise taken into 46
custody for committing an act that would be a felony or an 47
offense of violence who is not in any other category of child 48
specified in this division, if committed by an adult, has not 49
been adjudicated a delinquent child for committing an act that 50
would be a felony or an offense of violence if committed by an 51

adult, has not been convicted of or pleaded guilty to committing 52
a felony or an offense of violence, and is not a child with 53
respect to whom there is probable cause to believe that the 54
child may have committed an act that would be a felony or an 55
offense of violence if committed by an adult shall not be 56
procured by the superintendent or furnished by any person in 57
charge of any county, multicounty, municipal, municipal-county, 58
or multicounty-municipal jail or workhouse, community-based 59
correctional facility, halfway house, alternative residential 60
facility, or state correctional institution, except as 61
authorized in section 2151.313 of the Revised Code. 62

(2) Every clerk of a court of record in this state, other 63
than the supreme court or a court of appeals, shall send to the 64
superintendent of the bureau a weekly report containing a 65
summary of each case involving a felony, involving any crime 66
constituting a misdemeanor on the first offense and a felony on 67
subsequent offenses, involving a misdemeanor described in 68
division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 69
of the Revised Code, or involving an adjudication in a case in 70
which a child under eighteen years of age was alleged to be a 71
delinquent child for committing an act that would be a felony or 72
an offense of violence if committed by an adult. The clerk of 73
the court of common pleas shall include in the report and 74
summary the clerk sends under this division all information 75
described in divisions (A) (2) (a) to (f) of this section 76
regarding a case before the court of appeals that is served by 77
that clerk. The summary shall be written on the standard forms 78
furnished by the superintendent pursuant to division (B) of this 79
section and shall include the following information: 80

(a) The incident tracking number contained on the standard 81
forms furnished by the superintendent pursuant to division (B) 82

of this section;	83
(b) The style and number of the case;	84
(c) The date of arrest, offense, summons, or arraignment;	85
(d) The date that the person was convicted of or pleaded	86
guilty to the offense, adjudicated a delinquent child for	87
committing the act that would be a felony or an offense of	88
violence if committed by an adult, found not guilty of the	89
offense, or found not to be a delinquent child for committing an	90
act that would be a felony or an offense of violence if	91
committed by an adult, the date of an entry dismissing the	92
charge, an entry declaring a mistrial of the offense in which	93
the person is discharged, an entry finding that the person or	94
child is not competent to stand trial, or an entry of a nolle	95
prosequi, or the date of any other determination that	96
constitutes final resolution of the case;	97
(e) A statement of the original charge with the section of	98
the Revised Code that was alleged to be violated;	99
(f) If the person or child was convicted, pleaded guilty,	100
or was adjudicated a delinquent child, the sentence or terms of	101
probation imposed or any other disposition of the offender or	102
the delinquent child.	103
If the offense involved the disarming of a law enforcement	104
officer or an attempt to disarm a law enforcement officer, the	105
clerk shall clearly state that fact in the summary, and the	106
superintendent shall ensure that a clear statement of that fact	107
is placed in the bureau's records.	108
(3) The superintendent shall cooperate with and assist	109
sheriffs, chiefs of police, and other law enforcement officers	110
in the establishment of a complete system of criminal	111

identification and in obtaining fingerprints and other means of 112
identification of all persons arrested on a charge of a felony, 113
any crime constituting a misdemeanor on the first offense and a 114
felony on subsequent offenses, or a misdemeanor described in 115
division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 116
of the Revised Code and of all children under eighteen years of 117
age arrested or otherwise taken into custody for committing an 118
act that would be a felony or an offense of violence if 119
committed by an adult. The superintendent also shall file for 120
record the fingerprint impressions of all persons confined in a 121
county, multicounty, municipal, municipal-county, or 122
multicounty-municipal jail or workhouse, community-based 123
correctional facility, halfway house, alternative residential 124
facility, or state correctional institution for the violation of 125
state laws and of all children under eighteen years of age who 126
are confined in a county, multicounty, municipal, municipal- 127
county, or multicounty-municipal jail or workhouse, community- 128
based correctional facility, halfway house, alternative 129
residential facility, or state correctional institution or in 130
any facility for delinquent children for committing an act that 131
would be a felony or an offense of violence if committed by an 132
adult, and any other information that the superintendent may 133
receive from law enforcement officials of the state and its 134
political subdivisions. 135

(4) The superintendent shall carry out Chapter 2950. of 136
the Revised Code with respect to the registration of persons who 137
are convicted of or plead guilty to a sexually oriented offense 138
or a child-victim oriented offense and with respect to all other 139
duties imposed on the bureau under that chapter. 140

(5) The bureau shall perform centralized recordkeeping 141
functions for criminal history records and services in this 142

state for purposes of the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code and is the criminal history record repository as defined in that section for purposes of that compact. The superintendent or the superintendent's designee is the compact officer for purposes of that compact and shall carry out the responsibilities of the compact officer specified in that compact.

(B) The superintendent shall prepare and furnish to every county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and to every clerk of a court in this state specified in division (A) (2) of this section standard forms for reporting the information required under division (A) of this section. The standard forms that the superintendent prepares pursuant to this division may be in a tangible format, in an electronic format, or in both tangible formats and electronic formats.

(C) (1) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to be known as the Ohio law enforcement gateway to gather and disseminate information, data, and statistics for the use of law enforcement agencies and for other uses specified in this division. The superintendent may gather, store, retrieve, and disseminate information, data, and

statistics that pertain to children who are under eighteen years 174
of age and that are gathered pursuant to sections 109.57 to 175
109.61 of the Revised Code together with information, data, and 176
statistics that pertain to adults and that are gathered pursuant 177
to those sections. 178

(2) The superintendent or the superintendent's designee 179
shall gather information of the nature described in division (C) 180
(1) of this section that pertains to the offense and delinquency 181
history of a person who has been convicted of, pleaded guilty 182
to, or been adjudicated a delinquent child for committing a 183
sexually oriented offense or a child-victim oriented offense for 184
inclusion in the state registry of sex offenders and child- 185
victim offenders maintained pursuant to division (A)(1) of 186
section 2950.13 of the Revised Code and in the internet database 187
operated pursuant to division (A)(13) of that section and for 188
possible inclusion in the internet database operated pursuant to 189
division (A)(11) of that section. 190

(3) In addition to any other authorized use of 191
information, data, and statistics of the nature described in 192
division (C)(1) of this section, the superintendent or the 193
superintendent's designee may provide and exchange the 194
information, data, and statistics pursuant to the national crime 195
prevention and privacy compact as described in division (A)(5) 196
of this section. 197

(4) The attorney general may adopt rules under Chapter 198
119. of the Revised Code establishing guidelines for the 199
operation of and participation in the Ohio law enforcement 200
gateway. The rules may include criteria for granting and 201
restricting access to information gathered and disseminated 202
through the Ohio law enforcement gateway. The attorney general 203

shall permit the state medical board and board of nursing to 204
access and view, but not alter, information gathered and 205
disseminated through the Ohio law enforcement gateway. 206

The attorney general may appoint a steering committee to 207
advise the attorney general in the operation of the Ohio law 208
enforcement gateway that is comprised of persons who are 209
representatives of the criminal justice agencies in this state 210
that use the Ohio law enforcement gateway and is chaired by the 211
superintendent or the superintendent's designee. 212

(D) (1) The following are not public records under section 213
149.43 of the Revised Code: 214

(a) Information and materials furnished to the 215
superintendent pursuant to division (A) of this section; 216

(b) Information, data, and statistics gathered or 217
disseminated through the Ohio law enforcement gateway pursuant 218
to division (C) (1) of this section; 219

(c) Information and materials furnished to any board or 220
person under division (F) or (G) of this section. 221

(2) The superintendent or the superintendent's designee 222
shall gather and retain information so furnished under division 223
(A) of this section that pertains to the offense and delinquency 224
history of a person who has been convicted of, pleaded guilty 225
to, or been adjudicated a delinquent child for committing a 226
sexually oriented offense or a child-victim oriented offense for 227
the purposes described in division (C) (2) of this section. 228

(E) (1) The attorney general shall adopt rules, in 229
accordance with Chapter 119. of the Revised Code and subject to 230
division (E) (2) of this section, setting forth the procedure by 231
which a person may receive or release information gathered by 232

the superintendent pursuant to division (A) of this section. A 233
reasonable fee may be charged for this service. If a temporary 234
employment service submits a request for a determination of 235
whether a person the service plans to refer to an employment 236
position has been convicted of or pleaded guilty to an offense 237
listed or described in division (A) (1), (2), or (3) of section 238
109.572 of the Revised Code, the request shall be treated as a 239
single request and only one fee shall be charged. 240

(2) Except as otherwise provided in this division or 241
division (E) (3) or (4) of this section, a rule adopted under 242
division (E) (1) of this section may provide only for the release 243
of information gathered pursuant to division (A) of this section 244
that relates to the conviction of a person, or a person's plea 245
of guilty to, a criminal offense or to the arrest of a person as 246
provided in division (E) (3) of this section. The superintendent 247
shall not release, and the attorney general shall not adopt any 248
rule under division (E) (1) of this section that permits the 249
release of, any information gathered pursuant to division (A) of 250
this section that relates to an adjudication of a child as a 251
delinquent child, or that relates to a criminal conviction of a 252
person under eighteen years of age if the person's case was 253
transferred back to a juvenile court under division (B) (2) or 254
(3) of section 2152.121 of the Revised Code and the juvenile 255
court imposed a disposition or serious youthful offender 256
disposition upon the person under either division, unless either 257
of the following applies with respect to the adjudication or 258
conviction: 259

(a) The adjudication or conviction was for a violation of 260
section 2903.01 or 2903.02 of the Revised Code. 261

(b) The adjudication or conviction was for a sexually 262

oriented offense, the juvenile court was required to classify 263
the child a juvenile offender registrant for that offense under 264
section 2152.82, 2152.83, or 2152.86 of the Revised Code, that 265
classification has not been removed, and the records of the 266
adjudication or conviction have not been sealed or expunged 267
pursuant to sections 2151.355 to 2151.358 or sealed pursuant to 268
section 2952.32 of the Revised Code. 269

(3) A rule adopted under division (E) (1) of this section 270
may provide for the release of information gathered pursuant to 271
division (A) of this section that relates to the arrest of a 272
person who is eighteen years of age or older when the person has 273
not been convicted as a result of that arrest if any of the 274
following applies: 275

(a) The arrest was made outside of this state. 276

(b) A criminal action resulting from the arrest is 277
pending, and the superintendent confirms that the criminal 278
action has not been resolved at the time the criminal records 279
check is performed. 280

(c) The bureau cannot reasonably determine whether a 281
criminal action resulting from the arrest is pending, and not 282
more than one year has elapsed since the date of the arrest. 283

(4) A rule adopted under division (E) (1) of this section 284
may provide for the release of information gathered pursuant to 285
division (A) of this section that relates to an adjudication of 286
a child as a delinquent child if not more than five years have 287
elapsed since the date of the adjudication, the adjudication was 288
for an act that would have been a felony if committed by an 289
adult, the records of the adjudication have not been sealed or 290
expunged pursuant to sections 2151.355 to 2151.358 of the 291

Revised Code, and the request for information is made under 292
division (F) of this section or under section 109.572 of the 293
Revised Code. In the case of an adjudication for a violation of 294
the terms of community control or supervised release, the five- 295
year period shall be calculated from the date of the 296
adjudication to which the community control or supervised 297
release pertains. 298

(F) (1) As used in division (F) (2) of this section, "head 299
start agency" means an entity in this state that has been 300
approved to be an agency for purposes of subchapter II of the 301
"Community Economic Development Act," 95 Stat. 489 (1981), 42 302
U.S.C.A. 9831, as amended. 303

(2) (a) In addition to or in conjunction with any request 304
that is required to be made under section 109.572, 2151.86, 305
3301.32, 3301.541, division (C) of section 3310.58, or section 306
3319.39, 3319.391, 3327.10, 3701.881, 5104.013, 5123.081, or 307
5153.111 of the Revised Code or that is made under section 308
3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the 309
board of education of any school district; the director of 310
developmental disabilities; any county board of developmental 311
disabilities; any provider or subcontractor as defined in 312
section 5123.081 of the Revised Code; the chief administrator of 313
any chartered nonpublic school; the chief administrator of a 314
registered private provider that is not also a chartered 315
nonpublic school; the chief administrator of any home health 316
agency; the chief administrator of or person operating any child 317
day-care center, type A family day-care home, or type B family 318
day-care home licensed under Chapter 5104. of the Revised Code; 319
the chief administrator of any head start agency; the executive 320
director of a public children services agency; a private company 321
described in section 3314.41, 3319.392, 3326.25, or 3328.20 of 322

the Revised Code; or an employer described in division (J) (2) of 323
section 3327.10 of the Revised Code may request that the 324
superintendent of the bureau investigate and determine, with 325
respect to any individual who has applied for employment in any 326
position after October 2, 1989, or any individual wishing to 327
apply for employment with a board of education may request, with 328
regard to the individual, whether the bureau has any information 329
gathered under division (A) of this section that pertains to 330
that individual. On receipt of the request, subject to division 331
(E) (2) of this section, the superintendent shall determine 332
whether that information exists and, upon request of the person, 333
board, or entity requesting information, also shall request from 334
the federal bureau of investigation any criminal records it has 335
pertaining to that individual. The superintendent or the 336
superintendent's designee also may request criminal history 337
records from other states or the federal government pursuant to 338
the national crime prevention and privacy compact set forth in 339
section 109.571 of the Revised Code. Within thirty days of the 340
date that the superintendent receives a request, subject to 341
division (E) (2) of this section, the superintendent shall send 342
to the board, entity, or person a report of any information that 343
the superintendent determines exists, including information 344
contained in records that have been sealed under section 2953.32 345
of the Revised Code, and, within thirty days of its receipt, 346
subject to division (E) (2) of this section, shall send the 347
board, entity, or person a report of any information received 348
from the federal bureau of investigation, other than information 349
the dissemination of which is prohibited by federal law. 350

(b) When a board of education or a registered private 351
provider is required to receive information under this section 352
as a prerequisite to employment of an individual pursuant to 353

division (C) of section 3310.58 or section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district or provider only shall accept a certified copy of records of that nature within one year after the date of their issuance by the bureau.

(c) Notwithstanding division (F) (2) (a) of this section, in the case of a request under section 3319.39, 3319.391, or 3327.10 of the Revised Code only for criminal records maintained by the federal bureau of investigation, the superintendent shall not determine whether any information gathered under division (A) of this section exists on the person for whom the request is made.

(3) The state board of education may request, with respect to any individual who has applied for employment after October 2, 1989, in any position with the state board or the department of education, any information that a school district board of education is authorized to request under division (F) (2) of this section, and the superintendent of the bureau shall proceed as if the request has been received from a school district board of education under division (F) (2) of this section.

(4) When the superintendent of the bureau receives a request for information under section 3319.291 of the Revised Code, the superintendent shall proceed as if the request has

been received from a school district board of education and 384
shall comply with divisions (F) (2) (a) and (c) of this section. 385

(5) When a recipient of a classroom reading improvement 386
grant paid under section 3301.86 of the Revised Code requests, 387
with respect to any individual who applies to participate in 388
providing any program or service funded in whole or in part by 389
the grant, the information that a school district board of 390
education is authorized to request under division (F) (2) (a) of 391
this section, the superintendent of the bureau shall proceed as 392
if the request has been received from a school district board of 393
education under division (F) (2) (a) of this section. 394

(G) In addition to or in conjunction with any request that 395
is required to be made under section 3701.881, 3712.09, or 396
3721.121 of the Revised Code with respect to an individual who 397
has applied for employment in a position that involves providing 398
direct care to an older adult or adult resident, the chief 399
administrator of a home health agency, hospice care program, 400
home licensed under Chapter 3721. of the Revised Code, or adult 401
day-care program operated pursuant to rules adopted under 402
section 3721.04 of the Revised Code may request that the 403
superintendent of the bureau investigate and determine, with 404
respect to any individual who has applied after January 27, 405
1997, for employment in a position that does not involve 406
providing direct care to an older adult or adult resident, 407
whether the bureau has any information gathered under division 408
(A) of this section that pertains to that individual. 409

In addition to or in conjunction with any request that is 410
required to be made under section 173.27 of the Revised Code 411
with respect to an individual who has applied for employment in 412
a position that involves providing ombudsman services to 413

residents of long-term care facilities or recipients of 414
community-based long-term care services, the state long-term 415
care ombudsman, the director of aging, a regional long-term care 416
ombudsman program, or the designee of the ombudsman, director, 417
or program may request that the superintendent investigate and 418
determine, with respect to any individual who has applied for 419
employment in a position that does not involve providing such 420
ombudsman services, whether the bureau has any information 421
gathered under division (A) of this section that pertains to 422
that applicant. 423

In addition to or in conjunction with any request that is 424
required to be made under section 173.38 of the Revised Code 425
with respect to an individual who has applied for employment in 426
a direct-care position, the chief administrator of a provider, 427
as defined in section 173.39 of the Revised Code, may request 428
that the superintendent investigate and determine, with respect 429
to any individual who has applied for employment in a position 430
that is not a direct-care position, whether the bureau has any 431
information gathered under division (A) of this section that 432
pertains to that applicant. 433

In addition to or in conjunction with any request that is 434
required to be made under section 3712.09 of the Revised Code 435
with respect to an individual who has applied for employment in 436
a position that involves providing direct care to a pediatric 437
respite care patient or palliative care patient, the chief 438
administrator of a pediatric respite care program or palliative 439
care facility may request that the superintendent of the bureau 440
investigate and determine, with respect to any individual who 441
has applied for employment in a position that does not involve 442
providing direct care to a pediatric respite care patient or 443
palliative care patient, whether the bureau has any information 444

gathered under division (A) of this section that pertains to 445
that individual. 446

On receipt of a request under this division, the 447
superintendent shall determine whether that information exists 448
and, on request of the individual requesting information, shall 449
also request from the federal bureau of investigation any 450
criminal records it has pertaining to the applicant. The 451
superintendent or the superintendent's designee also may request 452
criminal history records from other states or the federal 453
government pursuant to the national crime prevention and privacy 454
compact set forth in section 109.571 of the Revised Code. Within 455
thirty days of the date a request is received, subject to 456
division (E)(2) of this section, the superintendent shall send 457
to the requester a report of any information determined to 458
exist, including information contained in records that have been 459
sealed under section 2953.32 of the Revised Code, and, within 460
thirty days of its receipt, shall send the requester a report of 461
any information received from the federal bureau of 462
investigation, other than information the dissemination of which 463
is prohibited by federal law. 464

(H) Information obtained by a government entity or person 465
under this section is confidential and shall not be released or 466
disseminated. 467

(I) The superintendent may charge a reasonable fee for 468
providing information or criminal records under division (F)(2) 469
or (G) of this section. 470

(J) As used in this section: 471

(1) "~~Pediatric Palliative care facility,~~" "palliative care 472
patient," "pediatric respite care patient," and "pediatric 473

respite care program" and "~~pediatric care patient~~" have the same 474
meanings as in section 3712.01 of the Revised Code. 475

(2) "Sexually oriented offense" and "child-victim oriented 476
offense" have the same meanings as in section 2950.01 of the 477
Revised Code. 478

(3) "Registered private provider" means a nonpublic school 479
or entity registered with the superintendent of public 480
instruction under section 3310.41 of the Revised Code to 481
participate in the autism scholarship program or section 3310.58 482
of the Revised Code to participate in the Jon Peterson special 483
needs scholarship program. 484

Sec. 140.01. As used in this chapter: 485

(A) "Hospital agency" means any public hospital agency or 486
any nonprofit hospital agency. 487

(B) "Public hospital agency" means any county, board of 488
county hospital trustees established pursuant to section 339.02 489
of the Revised Code, county hospital commission established 490
pursuant to section 339.14 of the Revised Code, municipal 491
corporation, new community authority organized under Chapter 492
349. of the Revised Code, joint township hospital district, 493
state or municipal university or college operating or authorized 494
to operate a hospital facility, or the state. 495

(C) "Nonprofit hospital agency" means a corporation or 496
association not for profit, no part of the net earnings of which 497
inures or may lawfully inure to the benefit of any private 498
shareholder or individual, that has authority to own or operate 499
a hospital facility or provides or is to provide services to one 500
or more other hospital agencies. 501

(D) "Governing body" means, in the case of a county, the 502

board of county commissioners or other legislative body; in the 503
case of a board of county hospital trustees, the board; in the 504
case of a county hospital commission, the commission; in the 505
case of a municipal corporation, the council or other 506
legislative authority; in the case of a new community authority, 507
its board of trustees; in the case of a joint township hospital 508
district, the joint township district hospital board; in the 509
case of a state or municipal university or college, its board of 510
trustees or board of directors; in the case of a nonprofit 511
hospital agency, the board of trustees or other body having 512
general management of the agency; and, in the case of the state, 513
the director of development services or the Ohio higher 514
educational facility commission. 515

(E) "Hospital facilities" means buildings, structures and 516
other improvements, additions thereto and extensions thereof, 517
furnishings, equipment, and real estate and interests in real 518
estate, used or to be used for or in connection with one or more 519
hospitals, emergency, intensive, intermediate, extended, long- 520
term, or self-care facilities, diagnostic and treatment and out- 521
patient facilities, facilities related to programs for home 522
health services, clinics, laboratories, public health centers, 523
research facilities, and rehabilitation facilities, for or 524
pertaining to diagnosis, treatment, care, or rehabilitation of 525
sick, ill, injured, infirm, impaired, disabled, or handicapped 526
persons, or the prevention, detection, and control of disease, 527
and also includes education, training, and food service 528
facilities for health professions personnel, housing facilities 529
for such personnel and their families, and parking and service 530
facilities in connection with any of the foregoing; and includes 531
any one, part of, or any combination of the foregoing; and 532
further includes site improvements, utilities, machinery, 533

facilities, furnishings, and any separate or connected 534
buildings, structures, improvements, sites, utilities, 535
facilities, or equipment to be used in, or in connection with 536
the operation or maintenance of, or supplementing or otherwise 537
related to the services or facilities to be provided by, any one 538
or more of such hospital facilities. 539

(F) "Costs of hospital facilities" means the costs of 540
acquiring hospital facilities or interests in hospital 541
facilities, including membership interests in nonprofit hospital 542
agencies, costs of constructing hospital facilities, costs of 543
improving one or more hospital facilities, including 544
reconstructing, rehabilitating, remodeling, renovating, and 545
enlarging, costs of equipping and furnishing such facilities, 546
and all financing costs pertaining thereto, including, without 547
limitation thereto, costs of engineering, architectural, and 548
other professional services, designs, plans, specifications and 549
surveys, and estimates of cost, costs of tests and inspections, 550
the costs of any indemnity or surety bonds and premiums on 551
insurance, all related direct or allocable administrative 552
expenses pertaining thereto, fees and expenses of trustees, 553
depositories, and paying agents for the obligations, cost of 554
issuance of the obligations and financing charges and fees and 555
expenses of financial advisors, attorneys, accountants, 556
consultants and rating services in connection therewith, 557
capitalized interest on the obligations, amounts necessary to 558
establish reserves as required by the bond proceedings, the 559
reimbursement of all moneys advanced or applied by the hospital 560
agency or others or borrowed from others for the payment of any 561
item or items of costs of such facilities, and all other 562
expenses necessary or incident to planning or determining 563
feasibility or practicability with respect to such facilities, 564

and such other expenses as may be necessary or incident to the 565
acquisition, construction, reconstruction, rehabilitation, 566
remodeling, renovation, enlargement, improvement, equipment, and 567
furnishing of such facilities, the financing thereof, and the 568
placing of the same in use and operation, including any one, 569
part of, or combination of such classes of costs and expenses, 570
and means the costs of refinancing obligations issued by, or 571
reimbursement of money advanced by, nonprofit hospital agencies 572
or others the proceeds of which were used for the payment of 573
costs of hospital facilities, if the governing body of the 574
public hospital agency determines that the refinancing or 575
reimbursement advances the purposes of this chapter, whether or 576
not the refinancing or reimbursement is in conjunction with the 577
acquisition or construction of additional hospital facilities. 578

(G) "Hospital receipts" means all moneys received by or on 579
behalf of a hospital agency from or in connection with the 580
ownership, operation, acquisition, construction, improvement, 581
equipping, or financing of any hospital facilities, including, 582
without limitation thereto, any rentals and other moneys 583
received from the lease, sale, or other disposition of hospital 584
facilities, and any gifts, grants, interest subsidies, or other 585
moneys received under any federal program for assistance in 586
financing the costs of hospital facilities, and any other gifts, 587
grants, and donations, and receipts therefrom, available for 588
financing the costs of hospital facilities. 589

(H) "Obligations" means bonds, notes, or other evidences 590
of indebtedness or obligation, including interest coupons 591
pertaining thereto, issued or issuable by a public hospital 592
agency to pay costs of hospital facilities. 593

(I) "Bond service charges" means principal, interest, and 594

call premium, if any, required to be paid on obligations. 595

(J) "Bond proceedings" means one or more ordinances, 596
resolutions, trust agreements, indentures, and other agreements 597
or documents, and amendments and supplements to the foregoing, 598
or any combination thereof, authorizing or providing for the 599
terms, including any variable interest rates, and conditions 600
applicable to, or providing for the security of, obligations and 601
the provisions contained in such obligations. 602

(K) "Nursing home" has the same meaning as in division (A) 603
(1) of section 5701.13 of the Revised Code. 604

(L) "Residential care facility" has the same meaning as in 605
division (A) (2) of section 5701.13 of the Revised Code. 606

(M) "Independent living facility" means any self-care 607
facility or other housing facility designed or used as a 608
residence for elderly persons. An "independent living facility" 609
does not include a residential facility, or that part of a 610
residential facility, that is any of the following: 611

(1) A hospital required to be certified by section 3727.02 612
of the Revised Code; 613

(2) A nursing home or residential care facility; 614

(3) A facility operated by a hospice care program licensed 615
under section 3712.04 of the Revised Code and used for the 616
program's hospice patients; 617

(4) A palliative care facility licensed under section 618
3712.042 of the Revised Code; 619

(5) A residential facility licensed by the department of 620
mental health and addiction services under section 5119.34 of 621
the Revised Code that provides accommodations, supervision, and 622

personal care services for three to sixteen unrelated adults; 623

~~(5)~~ (6) A residential facility licensed by the department 624
of mental health and addiction services under section 5119.34 of 625
the Revised Code that is not a residential facility described in 626
division (M) (4) of this section; 627

~~(6)~~ (7) A facility licensed to provide methadone treatment 628
under section 5119.391 of the Revised Code; 629

~~(7)~~ (8) A community addiction services provider, as 630
defined in section 5119.01 of the Revised Code; 631

~~(8)~~ (9) A residential facility licensed under section 632
5123.19 of the Revised Code or a facility providing services 633
under a contract with the department of developmental 634
disabilities under section 5123.18 of the Revised Code; 635

~~(9)~~ (10) A residential facility used as part of a hospital 636
to provide housing for staff of the hospital or students 637
pursuing a course of study at the hospital. 638

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of 639
the Revised Code: 640

(A) "Adult" means a person who is eighteen years of age or 641
older. 642

(B) "Attending physician" means the physician to whom a 643
principal or the family of a principal has assigned primary 644
responsibility for the treatment or care of the principal or, if 645
the responsibility has not been assigned, the physician who has 646
accepted that responsibility. 647

(C) "Comfort care" means any of the following: 648

(1) Nutrition when administered to diminish the pain or 649

discomfort of a principal, but not to postpone death; 650

(2) Hydration when administered to diminish the pain or 651
discomfort of a principal, but not to postpone death; 652

(3) Any other medical or nursing procedure, treatment, 653
intervention, or other measure that is taken to diminish the 654
pain or discomfort of a principal, but not to postpone death. 655

(D) "Consulting physician" means a physician who, in 656
conjunction with the attending physician of a principal, makes 657
one or more determinations that are required to be made by the 658
attending physician, or to be made by the attending physician 659
and one other physician, by an applicable provision of sections 660
1337.11 to 1337.17 of the Revised Code, to a reasonable degree 661
of medical certainty and in accordance with reasonable medical 662
standards. 663

(E) "Declaration for mental health treatment" has the same 664
meaning as in section 2135.01 of the Revised Code. 665

(F) "Guardian" means a person appointed by a probate court 666
pursuant to Chapter 2111. of the Revised Code to have the care 667
and management of the person of an incompetent. 668

(G) "Health care" means any care, treatment, service, or 669
procedure to maintain, diagnose, or treat an individual's 670
physical or mental condition or physical or mental health. 671

(H) "Health care decision" means informed consent, refusal 672
to give informed consent, or withdrawal of informed consent to 673
health care. 674

(I) "Health care facility" means any of the following: 675

(1) A hospital; 676

(2) A hospice care program, pediatric respite care program, or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state; 677
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(3) A palliative care facility; 681

(4) A nursing home; 682

~~(4)~~ (5) A home health agency; 683

~~(5)~~ (6) An intermediate care facility for individuals with intellectual disabilities; 684
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~~(6)~~ (7) A regulated community mental health organization. 686

(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities. 687
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(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code. 693
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(L) "Hospice care program," ~~and~~ "pediatric respite care program," and "palliative care facility" have the same meanings as in section 3712.01 of the Revised Code. 695
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(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code. 698
699

(N) "Hydration" means fluids that are artificially or technologically administered. 700
701

(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code. 702
703

(P) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.

(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a principal, will serve principally to prolong the process of dying.

(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.

(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.

(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(U) "Nutrition" means sustenance that is artificially or technologically administered.

(V) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following:

(1) Irreversible unawareness of one's being and environment.

(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.

(W) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political

subdivisions and governmental agencies, boards, commissions,	732
departments, institutions, offices, and other instrumentalities.	733
(X) "Physician" means a person who is authorized under	734
Chapter 4731. of the Revised Code to practice medicine and	735
surgery or osteopathic medicine and surgery.	736
(Y) "Political subdivision" and "state" have the same	737
meanings as in section 2744.01 of the Revised Code.	738
(Z) "Professional disciplinary action" means action taken	739
by the board or other entity that regulates the professional	740
conduct of health care personnel, including the state medical	741
board and the board of nursing.	742
(AA) "Regulated community mental health organization"	743
means a residential facility as defined and licensed under	744
section 5119.34 of the Revised Code or a community mental health	745
services provider as defined in section 5122.01 of the Revised	746
Code.	747
(BB) "Terminal condition" means an irreversible,	748
incurable, and untreatable condition caused by disease, illness,	749
or injury from which, to a reasonable degree of medical	750
certainty as determined in accordance with reasonable medical	751
standards by a principal's attending physician and one other	752
physician who has examined the principal, both of the following	753
apply:	754
(1) There can be no recovery.	755
(2) Death is likely to occur within a relatively short	756
time if life-sustaining treatment is not administered.	757
(CC) "Tort action" means a civil action for damages for	758
injury, death, or loss to person or property, other than a civil	759

action for damages for a breach of contract or another agreement 760
between persons. 761

Sec. 2133.01. Unless the context otherwise requires, as 762
used in sections 2133.01 to 2133.15 of the Revised Code: 763

(A) "Adult" means an individual who is eighteen years of 764
age or older. 765

(B) "Attending physician" means the physician to whom a 766
declarant or other patient, or the family of a declarant or 767
other patient, has assigned primary responsibility for the 768
treatment or care of the declarant or other patient, or, if the 769
responsibility has not been assigned, the physician who has 770
accepted that responsibility. 771

(C) "Comfort care" means any of the following: 772

(1) Nutrition when administered to diminish the pain or 773
discomfort of a declarant or other patient, but not to postpone 774
the declarant's or other patient's death; 775

(2) Hydration when administered to diminish the pain or 776
discomfort of a declarant or other patient, but not to postpone 777
the declarant's or other patient's death; 778

(3) Any other medical or nursing procedure, treatment, 779
intervention, or other measure that is taken to diminish the 780
pain or discomfort of a declarant or other patient, but not to 781
postpone the declarant's or other patient's death. 782

(D) "Consulting physician" means a physician who, in 783
conjunction with the attending physician of a declarant or other 784
patient, makes one or more determinations that are required to 785
be made by the attending physician, or to be made by the 786
attending physician and one other physician, by an applicable 787

provision of this chapter, to a reasonable degree of medical	788
certainty and in accordance with reasonable medical standards.	789
(E) "Declarant" means any adult who has executed a	790
declaration in accordance with section 2133.02 of the Revised	791
Code.	792
(F) "Declaration" means a written document executed in	793
accordance with section 2133.02 of the Revised Code.	794
(G) "Durable power of attorney for health care" means a	795
document created pursuant to sections 1337.11 to 1337.17 of the	796
Revised Code.	797
(H) "Guardian" means a person appointed by a probate court	798
pursuant to Chapter 2111. of the Revised Code to have the care	799
and management of the person of an incompetent.	800
(I) "Health care facility" means any of the following:	801
(1) A hospital;	802
(2) A hospice care program, pediatric respite care	803
program, or other institution that specializes in comfort care	804
of patients in a terminal condition or in a permanently	805
unconscious state;	806
(3) <u>A palliative care facility;</u>	807
<u>(4)</u> A nursing home or residential care facility, as	808
defined in section 3721.01 of the Revised Code;	809
(4) <u>(5)</u> A home health agency and any residential facility	810
where a person is receiving care under the direction of a home	811
health agency;	812
(5) <u>(6)</u> An intermediate care facility for individuals with	813
intellectual disabilities.	814

(J) "Health care personnel" means physicians, nurses, 815
physician assistants, emergency medical technicians-basic, 816
emergency medical technicians-intermediate, emergency medical 817
technicians-paramedic, medical technicians, dietitians, other 818
authorized persons acting under the direction of an attending 819
physician, and administrators of health care facilities. 820

(K) "Home health agency" has the same meaning as in 821
section 3701.881 of the Revised Code. 822

(L) "Hospice care program," "palliative care facility," 823
and "pediatric respite care program" have the same meanings as 824
in section 3712.01 of the Revised Code. 825

(M) "Hospital" has the same meanings as in sections 826
3701.01, 3727.01, and 5122.01 of the Revised Code. 827

(N) "Hydration" means fluids that are artificially or 828
technologically administered. 829

(O) "Incompetent" has the same meaning as in section 830
2111.01 of the Revised Code. 831

(P) "Intermediate care facility for the individuals with 832
intellectual disabilities" has the same meaning as in section 833
5124.01 of the Revised Code. 834

(Q) "Life-sustaining treatment" means any medical 835
procedure, treatment, intervention, or other measure that, when 836
administered to a qualified patient or other patient, will serve 837
principally to prolong the process of dying. 838

(R) "Nurse" means a person who is licensed to practice 839
nursing as a registered nurse or to practice practical nursing 840
as a licensed practical nurse pursuant to Chapter 4723. of the 841
Revised Code. 842

(S) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	843 844
(T) "Nutrition" means sustenance that is artificially or technologically administered.	845 846
(U) "Permanently unconscious state" means a state of permanent unconsciousness in a declarant or other patient that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, is characterized by both of the following:	847 848 849 850 851 852 853
(1) Irreversible unawareness of one's being and environment.	854 855
(2) Total loss of cerebral cortical functioning, resulting in the declarant or other patient having no capacity to experience pain or suffering.	856 857 858
(V) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.	859 860 861 862
(W) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	863 864 865
(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	866 867
(Y) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical	868 869 870

board and the board of nursing. 871

(Z) "Qualified patient" means an adult who has executed a 872
declaration and has been determined to be in a terminal 873
condition or in a permanently unconscious state. 874

(AA) "Terminal condition" means an irreversible, 875
incurable, and untreatable condition caused by disease, illness, 876
or injury from which, to a reasonable degree of medical 877
certainty as determined in accordance with reasonable medical 878
standards by a declarant's or other patient's attending 879
physician and one other physician who has examined the declarant 880
or other patient, both of the following apply: 881

(1) There can be no recovery. 882

(2) Death is likely to occur within a relatively short 883
time if life-sustaining treatment is not administered. 884

(BB) "Tort action" means a civil action for damages for 885
injury, death, or loss to person or property, other than a civil 886
action for damages for breach of a contract or another agreement 887
between persons. 888

Sec. 2317.54. No hospital, home health agency, ambulatory 889
surgical facility, palliative care facility, or provider of a 890
hospice care program or pediatric respite care program shall be 891
held liable for a physician's failure to obtain an informed 892
consent from the physician's patient prior to a surgical or 893
medical procedure or course of procedures, unless the physician 894
is an employee of the hospital, home health agency, ambulatory 895
surgical facility, palliative care facility, or provider of a 896
hospice care program or pediatric respite care program. 897

Written consent to a surgical or medical procedure or 898
course of procedures shall, to the extent that it fulfills all 899

the requirements in divisions (A), (B), and (C) of this section, 900
be presumed to be valid and effective, in the absence of proof 901
by a preponderance of the evidence that the person who sought 902
such consent was not acting in good faith, or that the execution 903
of the consent was induced by fraudulent misrepresentation of 904
material facts, or that the person executing the consent was not 905
able to communicate effectively in spoken and written English or 906
any other language in which the consent is written. Except as 907
herein provided, no evidence shall be admissible to impeach, 908
modify, or limit the authorization for performance of the 909
procedure or procedures set forth in such written consent. 910

(A) The consent sets forth in general terms the nature and 911
purpose of the procedure or procedures, and what the procedures 912
are expected to accomplish, together with the reasonably known 913
risks, and, except in emergency situations, sets forth the names 914
of the physicians who shall perform the intended surgical 915
procedures. 916

(B) The person making the consent acknowledges that such 917
disclosure of information has been made and that all questions 918
asked about the procedure or procedures have been answered in a 919
satisfactory manner. 920

(C) The consent is signed by the patient for whom the 921
procedure is to be performed, or, if the patient for any reason 922
including, but not limited to, competence, minority, or the fact 923
that, at the latest time that the consent is needed, the patient 924
is under the influence of alcohol, hallucinogens, or drugs, 925
lacks legal capacity to consent, by a person who has legal 926
authority to consent on behalf of such patient in such 927
circumstances, including either of the following: 928

(1) The parent, whether the parent is an adult or a minor, 929

of the parent's minor child; 930

(2) An adult whom the parent of the minor child has given 931
written authorization to consent to a surgical or medical 932
procedure or course of procedures for the parent's minor child. 933

Any use of a consent form that fulfills the requirements 934
stated in divisions (A), (B), and (C) of this section has no 935
effect on the common law rights and liabilities, including the 936
right of a physician to obtain the oral or implied consent of a 937
patient to a medical procedure, that may exist as between 938
physicians and patients on July 28, 1975. 939

As used in this section the term "hospital" has the same 940
meaning as in section 2305.113 of the Revised Code; "home health 941
agency" has the same meaning as in section 5101.61 of the 942
Revised Code; "ambulatory surgical facility" has the meaning as 943
in division (A) of section 3702.30 of the Revised Code; and 944
"hospice care program," "palliative care facility," and 945
"pediatric respite care program" have the same meanings as in 946
section 3712.01 of the Revised Code. The provisions of this 947
division apply to hospitals, doctors of medicine, doctors of 948
osteopathic medicine, and doctors of podiatric medicine. 949

Sec. 3701.881. (A) As used in this section: 950

(1) "Applicant" means a person who is under final 951
consideration for employment with a home health agency in a 952
full-time, part-time, or temporary position that involves 953
providing direct care to an individual or is referred to a home 954
health agency by an employment service for such a position. 955

(2) "Community-based long-term care provider" means a 956
provider as defined in section 173.39 of the Revised Code. 957

(3) "Community-based long-term care subcontractor" means a 958

subcontractor as defined in section 173.38 of the Revised Code.	959
(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	960 961
(5) "Direct care" means any of the following:	962
(a) Any service identified in divisions (A)(8)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home;	963 964 965
(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;	966 967 968 969
(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.	970 971 972
(6) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.	973 974 975
(7) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.	976 977 978 979 980
(8) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, <u>palliative care facility</u> , hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:	981 982 983 984 985 986

(a) Skilled nursing care;	987
(b) Physical therapy;	988
(c) Speech-language pathology;	989
(d) Occupational therapy;	990
(e) Medical social services;	991
(f) Home health aide services.	992
(9) "Home health aide services" means any of the following services provided by an employee of a home health agency:	993
	994
(a) Hands-on bathing or assistance with a tub bath or shower;	995
	996
(b) Assistance with dressing, ambulation, and toileting;	997
(c) Catheter care but not insertion;	998
(d) Meal preparation and feeding.	999
(10) "Hospice care program," " <u>palliative care facility,</u> " and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	1000
	1001
	1002
(11) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	1003
	1004
	1005
(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	1006
	1007
(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	1008
	1009
	1010
(14) "Occupational therapy" has the same meaning as in	1011

section 4755.04 of the Revised Code. 1012

(15) "Physical therapy" has the same meaning as in section 1013
4755.40 of the Revised Code. 1014

(16) "Social worker" means a person licensed under Chapter 1015
4757. of the Revised Code to practice as a social worker or 1016
independent social worker. 1017

(17) "Speech-language pathology" has the same meaning as 1018
in section 4753.01 of the Revised Code. 1019

(18) "Waiver agency" has the same meaning as in section 1020
5164.342 of the Revised Code. 1021

(B) No home health agency shall employ an applicant or 1022
continue to employ an employee in a position that involves 1023
providing direct care to an individual if any of the following 1024
apply: 1025

(1) A review of the databases listed in division (D) of 1026
this section reveals any of the following: 1027

(a) That the applicant or employee is included in one or 1028
more of the databases listed in divisions (D) (1) to (5) of this 1029
section; 1030

(b) That there is in the state nurse aide registry 1031
established under section 3721.32 of the Revised Code a 1032
statement detailing findings by the director of health that the 1033
applicant or employee neglected or abused a long-term care 1034
facility or residential care facility resident or 1035
misappropriated property of such a resident; 1036

(c) That the applicant or employee is included in one or 1037
more of the databases, if any, specified in rules adopted under 1038
this section and the rules prohibit the home health agency from 1039

employing an applicant or continuing to employ an employee 1040
included in such a database in a position that involves 1041
providing direct care to an individual. 1042

(2) After the applicant or employee is provided, pursuant 1043
to division (E) (2) (a) of this section, a copy of the form 1044
prescribed pursuant to division (C) (1) of section 109.572 of the 1045
Revised Code and the standard impression sheet prescribed 1046
pursuant to division (C) (2) of that section, the applicant or 1047
employee fails to complete the form or provide the applicant's 1048
or employee's fingerprint impressions on the standard impression 1049
sheet. 1050

(3) Except as provided in rules adopted under this 1051
section, the applicant or employee is found by a criminal 1052
records check required by this section to have been convicted 1053
of, pleaded guilty to, or been found eligible for intervention 1054
in lieu of conviction for a disqualifying offense. 1055

(C) Except as provided by division (F) of this section, 1056
the chief administrator of a home health agency shall inform 1057
each applicant of both of the following at the time of the 1058
applicant's initial application for employment or referral to 1059
the home health agency by an employment service for a position 1060
that involves providing direct care to an individual: 1061

(1) That a review of the databases listed in division (D) 1062
of this section will be conducted to determine whether the home 1063
health agency is prohibited by division (B) (1) of this section 1064
from employing the applicant in the position; 1065

(2) That, unless the database review reveals that the 1066
applicant may not be employed in the position, a criminal 1067
records check of the applicant will be conducted and the 1068

applicant is required to provide a set of the applicant's 1069
fingerprint impressions as part of the criminal records check. 1070

(D) As a condition of employing any applicant in a 1071
position that involves providing direct care to an individual, 1072
the chief administrator of a home health agency shall conduct a 1073
database review of the applicant in accordance with rules 1074
adopted under this section. If rules adopted under this section 1075
so require, the chief administrator of a home health agency 1076
shall conduct a database review of an employee in accordance 1077
with the rules as a condition of continuing to employ the 1078
employee in a position that involves providing direct care to an 1079
individual. However, the chief administrator is not required to 1080
conduct a database review of an applicant or employee if 1081
division (F) of this section applies. A database review shall 1082
determine whether the applicant or employee is included in any 1083
of the following: 1084

(1) The excluded parties list system that is maintained by 1085
the United States general services administration pursuant to 1086
subpart 9.4 of the federal acquisition regulation and available 1087
at the federal web site known as the system for award 1088
management; 1089

(2) The list of excluded individuals and entities 1090
maintained by the office of inspector general in the United 1091
States department of health and human services pursuant to the 1092
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 1093
and 1320c-5; 1094

(3) The registry of MR/DD employees established under 1095
section 5123.52 of the Revised Code; 1096

(4) The internet-based sex offender and child-victim 1097

offender database established under division (A) (11) of section 1098
2950.13 of the Revised Code; 1099

(5) The internet-based database of inmates established 1100
under section 5120.66 of the Revised Code; 1101

(6) The state nurse aide registry established under 1102
section 3721.32 of the Revised Code; 1103

(7) Any other database, if any, specified in rules adopted 1104
under this section. 1105

(E) (1) As a condition of employing any applicant in a 1106
position that involves providing direct care to an individual, 1107
the chief administrator of a home health agency shall request 1108
the superintendent of the bureau of criminal identification and 1109
investigation to conduct a criminal records check of the 1110
applicant. If rules adopted under this section so require, the 1111
chief administrator of a home health agency shall request the 1112
superintendent to conduct a criminal records check of an 1113
employee at times specified in the rules as a condition of 1114
continuing to employ the employee in a position that involves 1115
providing direct care to an individual. However, the chief 1116
administrator is not required to request the criminal records 1117
check of the applicant or the employee if division (F) of this 1118
section applies or the home health agency is prohibited by 1119
division (B) (1) of this section from employing the applicant or 1120
continuing to employ the employee in a position that involves 1121
providing direct care to an individual. If an applicant or 1122
employee for whom a criminal records check request is required 1123
by this section does not present proof of having been a resident 1124
of this state for the five-year period immediately prior to the 1125
date upon which the criminal records check is requested or does 1126
not provide evidence that within that five-year period the 1127

superintendent has requested information about the applicant 1128
from the federal bureau of investigation in a criminal records 1129
check, the chief administrator shall request that the 1130
superintendent obtain information from the federal bureau of 1131
investigation as a part of the criminal records check. Even if 1132
an applicant or employee for whom a criminal records check 1133
request is required by this section presents proof that the 1134
applicant or employee has been a resident of this state for that 1135
five-year period, the chief administrator may request that the 1136
superintendent include information from the federal bureau of 1137
investigation in the criminal records check. 1138

(2) The chief administrator shall do all of the following: 1139

(a) Provide to each applicant and employee for whom a 1140
criminal records check request is required by this section a 1141
copy of the form prescribed pursuant to division (C)(1) of 1142
section 109.572 of the Revised Code and a standard impression 1143
sheet prescribed pursuant to division (C)(2) of that section; 1144

(b) Obtain the completed form and standard impression 1145
sheet from each applicant and employee; 1146

(c) Forward the completed form and standard impression 1147
sheet to the superintendent at the time the chief administrator 1148
requests the criminal records check. 1149

(3) A home health agency shall pay to the bureau of 1150
criminal identification and investigation the fee prescribed 1151
pursuant to division (C)(3) of section 109.572 of the Revised 1152
Code for each criminal records check the agency requests under 1153
this section. A home health agency may charge an applicant a fee 1154
not exceeding the amount the agency pays to the bureau under 1155
this section if both of the following apply: 1156

(a) The home health agency notifies the applicant at the 1157
time of initial application for employment of the amount of the 1158
fee and that, unless the fee is paid, the applicant will not be 1159
considered for employment. 1160

(b) The medicaid program does not reimburse the home 1161
health agency for the fee it pays to the bureau under this 1162
section. 1163

(F) Divisions (C) to (E) of this section do not apply with 1164
regard to an applicant or employee if the applicant or employee 1165
is referred to a home health agency by an employment service 1166
that supplies full-time, part-time, or temporary staff for 1167
positions that involve providing direct care to an individual 1168
and both of the following apply: 1169

(1) The chief administrator of the home health agency 1170
receives from the employment service confirmation that a review 1171
of the databases listed in division (D) of this section was 1172
conducted with regard to the applicant or employee. 1173

(2) The chief administrator of the home health agency 1174
receives from the employment service, applicant, or employee a 1175
report of the results of a criminal records check of the 1176
applicant or employee that has been conducted by the 1177
superintendent within the one-year period immediately preceding 1178
the following: 1179

(a) In the case of an applicant, the date of the 1180
applicant's referral by the employment service to the home 1181
health agency; 1182

(b) In the case of an employee, the date by which the home 1183
health agency would otherwise have to request a criminal records 1184
check of the employee under division (E) of this section. 1185

(G) (1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required by this section before obtaining the results of the criminal records check if the agency is not prohibited by division (B) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies:

(a) The chief administrator of the home health agency requests the criminal records check in accordance with division (E) of this section not later than five business days after the applicant begins conditional employment.

(b) The applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter;

(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief

administrator of the home health agency when the employment 1215
service receives the results. 1216

(2) If a home health agency employs an applicant 1217
conditionally pursuant to division (G)(1)(b) of this section, 1218
the employment service, on its receipt of the results of the 1219
criminal records check, promptly shall send a copy of the 1220
results to the chief administrator of the agency. 1221

(3) A home health agency that employs an applicant 1222
conditionally pursuant to division (G)(1)(a) or (b) of this 1223
section shall terminate the applicant's employment if the 1224
results of the criminal records check, other than the results of 1225
any request for information from the federal bureau of 1226
investigation, are not obtained within the period ending sixty 1227
days after the date the request for the criminal records check 1228
is made. Regardless of when the results of the criminal records 1229
check are obtained, if the results indicate that the applicant 1230
has been convicted of, pleaded guilty to, or been found eligible 1231
for intervention in lieu of conviction for a disqualifying 1232
offense, the home health agency shall terminate the applicant's 1233
employment unless circumstances specified in rules adopted under 1234
this section that permit the agency to employ the applicant 1235
exist and the agency chooses to employ the applicant. 1236
Termination of employment under this division shall be 1237
considered just cause for discharge for purposes of division (D) 1238
(2) of section 4141.29 of the Revised Code if the applicant 1239
makes any attempt to deceive the home health agency about the 1240
applicant's criminal record. 1241

(H) The report of any criminal records check conducted by 1242
the bureau of criminal identification and investigation in 1243
accordance with section 109.572 of the Revised Code and pursuant 1244

to a request made under this section is not a public record for 1245
the purposes of section 149.43 of the Revised Code and shall not 1246
be made available to any person other than the following: 1247

(1) The applicant or employee who is the subject of the 1248
criminal records check or the applicant's or employee's 1249
representative; 1250

(2) The home health agency requesting the criminal records 1251
check or its representative; 1252

(3) The administrator of any other facility, agency, or 1253
program that provides direct care to individuals that is owned 1254
or operated by the same entity that owns or operates the home 1255
health agency that requested the criminal records check; 1256

(4) The employment service that requested the criminal 1257
records check; 1258

(5) The director of health and the staff of the department 1259
of health who monitor a home health agency's compliance with 1260
this section; 1261

(6) The director of aging or the director's designee if 1262
either of the following apply: 1263

(a) In the case of a criminal records check requested by a 1264
home health agency, the home health agency also is a community- 1265
based long-term care provider or community-based long-term care 1266
subcontractor; 1267

(b) In the case of a criminal records check requested by 1268
an employment service, the employment service makes the request 1269
for an applicant or employee the employment service refers to a 1270
home health agency that also is a community-based long-term care 1271
provider or community-based long-term care subcontractor. 1272

(7) The medicaid director and the staff of the department	1273
of medicaid who are involved in the administration of the	1274
medicaid program if either of the following apply:	1275
(a) In the case of a criminal records check requested by a	1276
home health agency, the home health agency also is a waiver	1277
agency;	1278
(b) In the case of a criminal records check requested by	1279
an employment service, the employment service makes the request	1280
for an applicant or employee the employment service refers to a	1281
home health agency that also is a waiver agency.	1282
(8) Any court, hearing officer, or other necessary	1283
individual involved in a case dealing with any of the following:	1284
(a) A denial of employment of the applicant or employee;	1285
(b) Employment or unemployment benefits of the applicant	1286
or employee;	1287
(c) A civil or criminal action regarding the medicaid	1288
program.	1289
(I) In a tort or other civil action for damages that is	1290
brought as the result of an injury, death, or loss to person or	1291
property caused by an applicant or employee who a home health	1292
agency employs in a position that involves providing direct care	1293
to an individual, all of the following shall apply:	1294
(1) If the home health agency employed the applicant or	1295
employee in good faith and reasonable reliance on the report of	1296
a criminal records check requested under this section, the	1297
agency shall not be found negligent solely because of its	1298
reliance on the report, even if the information in the report is	1299
determined later to have been incomplete or inaccurate.	1300

(2) If the home health agency employed the applicant in good faith on a conditional basis pursuant to division (G) of this section, the agency shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section.

(3) If the home health agency in good faith employed the applicant or employee according to the personal character standards established in rules adopted under this section, the agency shall not be found negligent solely because the applicant or employee had been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(J) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D) (7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the

times at which the database reviews and criminal records checks 1329
are to be conducted; 1330

(c) If the rules specify other databases to be checked as 1331
part of the database reviews, the circumstances under which a 1332
home health agency is prohibited from employing an applicant or 1333
continuing to employ an employee who is found by a database 1334
review to be included in one or more of those databases; 1335

(d) Circumstances under which a home health agency may 1336
employ an applicant or employee who is found by a criminal 1337
records check required by this section to have been convicted 1338
of, pleaded guilty to, or been found eligible for intervention 1339
in lieu of conviction for a disqualifying offense but meets 1340
personal character standards. 1341

Sec. 3712.01. As used in this chapter: 1342

(A) "Hospice care program" means a coordinated program of 1343
home, outpatient, and inpatient care and services that is 1344
operated by a person or public agency and that provides the 1345
following care and services to hospice patients, including 1346
services as indicated below to hospice patients' families, 1347
through a medically directed interdisciplinary team, under 1348
interdisciplinary plans of care established pursuant to section 1349
3712.06 of the Revised Code, in order to meet the physical, 1350
psychological, social, spiritual, and other special needs that 1351
are experienced during the final stages of illness, dying, and 1352
bereavement: 1353

(1) Nursing care by or under the supervision of a 1354
registered nurse; 1355

(2) Physical, occupational, or speech or language therapy, 1356
unless waived by the department of health pursuant to rules 1357

adopted under division (A) of section 3712.03 of the Revised Code;	1358 1359
(3) Medical social services by a social worker under the direction of a physician;	1360 1361
(4) Services of a home health aide;	1362
(5) Medical supplies, including drugs and biologicals, and the use of medical appliances;	1363 1364
(6) Physician's services;	1365
(7) Short-term inpatient care, including both palliative and respite care and procedures;	1366 1367
(8) Counseling for hospice patients and hospice patients' families;	1368 1369
(9) Services of volunteers under the direction of the provider of the hospice care program;	1370 1371
(10) Bereavement services for hospice patients' families.	1372
"Hospice care program" does not include a <u>palliative care facility or pediatric respite care program.</u>	1373 1374
(B) "Hospice patient" means a patient, other than a pediatric respite care patient, who has been diagnosed as terminally ill, has an anticipated life expectancy of six months or less, and has voluntarily requested and is receiving care from a person or public agency licensed under this chapter to provide a hospice care program.	1375 1376 1377 1378 1379 1380
(C) "Hospice patient's family" means a hospice patient's immediate family members, including a spouse, brother, sister, child, or parent, and any other relative or individual who has significant personal ties to the patient and who is designated	1381 1382 1383 1384

as a member of the patient's family by mutual agreement of the 1385
patient, the relative or individual, and the patient's 1386
interdisciplinary team. 1387

(D) "Interdisciplinary team" means a working unit composed 1388
of professional and lay persons that includes at least a 1389
physician, a registered nurse, a social worker, a member of the 1390
clergy or a counselor, and a volunteer. 1391

(E) "Palliative care" means treatment for a patient with a 1392
serious, chronic, or life-threatening illness directed at 1393
controlling pain, relieving other symptoms, and enhancing the 1394
quality of life of the patient and the patient's family, 1395
particularly with psychosocial support and medical decision 1396
guidance, rather than treatment for the purpose of cure. Nothing 1397
in this section shall be interpreted to mean that palliative 1398
care can be provided only in a palliative care facility or as a 1399
component of a hospice care program or pediatric respite care 1400
program. 1401

(F) "Physician" means a person authorized under Chapter 1402
4731. of the Revised Code to practice medicine and surgery or 1403
osteopathic medicine and surgery. 1404

(G) "Attending physician" means the physician identified 1405
by the hospice patient, pediatric respite care patient, hospice 1406
patient's family, or pediatric respite care patient's family as 1407
having primary responsibility for the medical care of the 1408
hospice patient or pediatric respite care patient. 1409

(H) "Registered nurse" means a person registered under 1410
Chapter 4723. of the Revised Code to practice professional 1411
nursing. 1412

(I) "Social worker" means a person licensed under Chapter 1413

4757. of the Revised Code to practice as a social worker or 1414
independent social worker. 1415

(J) "Pediatric respite care program" means a program 1416
operated by a person or public agency that provides inpatient 1417
respite care and related services, including all of the 1418
following services, only to pediatric respite care patients and, 1419
as indicated below, pediatric respite care patients' families, 1420
in order to meet the physical, psychological, social, spiritual, 1421
and other special needs that are experienced during or leading 1422
up to the final stages of illness, dying, and bereavement: 1423

(1) Short-term inpatient care, including both palliative 1424
and respite care and procedures; 1425

(2) Nursing care by or under the supervision of a 1426
registered nurse; 1427

(3) Physician's services; 1428

(4) Medical social services by a social worker under the 1429
direction of a physician; 1430

(5) Medical supplies, including drugs and biologicals, and 1431
the use of medical appliances; 1432

(6) Counseling for pediatric respite care patients and 1433
pediatric respite care patients' families; 1434

(7) Bereavement services for respite care patients' 1435
families. 1436

"Pediatric respite care program" does not include a 1437
hospice care program or palliative care facility. 1438

(K) "Pediatric respite care patient" means a patient, 1439
other than a hospice patient or palliative care patient, who is 1440

less than twenty-seven years of age and to whom all of the 1441
following conditions apply: 1442

(1) The patient has been diagnosed with a disease or 1443
condition that is life-threatening and is expected to shorten 1444
the life expectancy that would have applied to the patient 1445
absent the patient's diagnosis, regardless of whether the 1446
patient is terminally ill. 1447

(2) The diagnosis described in division (K)(1) of this 1448
section occurred while the patient was less than eighteen years 1449
of age. 1450

(3) The patient has voluntarily requested and is receiving 1451
care from a person or public agency licensed under this chapter 1452
to provide a pediatric respite care program. 1453

(L) "Pediatric respite care patient's family" means a 1454
pediatric respite care patient's family members, including a 1455
spouse, brother, sister, child, or parent, and any other 1456
relative or individual who has significant personal ties to the 1457
patient and who is designated as a member of the patient's 1458
family by mutual agreement of the patient, the relative or 1459
individual, and the patient's interdisciplinary team. 1460

(M) "Palliative care facility" means a facility operated 1461
by a person or public agency that provides palliative care 1462
twenty-four hours a day and seven days a week, the medical 1463
components of which are under the direction of a physician; 1464

(N) "Palliative care patient" means a patient, other than 1465
a hospice care patient or pediatric respite care patient, who 1466
has voluntarily requested and is receiving care from a person or 1467
public agency licensed under this chapter to operate a 1468
palliative care facility. 1469

Sec. 3712.032. (A) In accordance with Chapter 119. of the 1470
Revised Code, the director of health shall adopt rules that do 1471
all of the following: 1472

(1) Provide for the licensing of persons or public 1473
agencies operating palliative care facilities within this state 1474
by the department of health and for the suspension and 1475
revocation of licenses; 1476

(2) Establish a license fee and license renewal fee for 1477
palliative care facilities, neither of which shall, except as 1478
provided in division (B) of this section, exceed six hundred 1479
dollars. The fees shall cover the three-year period during which 1480
an existing license is valid as provided in division (B) of 1481
section 3712.042 of the Revised Code. 1482

(3) Establish an inspection fee not to exceed, except as 1483
provided in division (B) of this section, one thousand seven 1484
hundred fifty dollars; 1485

(4) Establish requirements for palliative care facilities 1486
and services; 1487

(5) Provide for the granting of licenses to operate 1488
palliative care facilities to persons and public agencies that 1489
are accredited or certified to operate such facilities by an 1490
entity whose standards for accreditation or certification equal 1491
or exceed those provided for licensure under this chapter and 1492
rules adopted under it; 1493

(6) Establish interpretive guidelines for each rule 1494
adopted under this section. 1495

(B) Subject to the approval of the controlling board, the 1496
director of health may establish fees in excess of the maximum 1497
amounts specified in this section, provided that the fees do not 1498

exceed those amounts by greater than fifty per cent. 1499

(C) The department of health shall: 1500

(1) Grant, suspend, and revoke licenses for palliative 1501
care facilities in accordance with this chapter and rules 1502
adopted under it; 1503

(2) Make such inspections as are necessary to determine 1504
whether palliative care facilities and services meet the 1505
requirements of this chapter and rules adopted under it; and 1506

(3) Implement and enforce provisions of this chapter and 1507
rules adopted under it as such provisions apply to palliative 1508
care facilities. 1509

Sec. 3712.042. Every person or public agency that proposes 1510
to operate a palliative care facility shall apply to the 1511
department of health for a license. Application shall be made on 1512
forms prescribed and provided by the department, shall include 1513
such information as the department requires, and shall be 1514
accompanied by the license fee established in rules adopted by 1515
the director of health under division (A) of section 3712.032 of 1516
the Revised Code. 1517

The department shall grant a license to the applicant if 1518
the applicant is in compliance with this chapter and rules 1519
adopted under it. 1520

(B) A license granted under this section shall be valid 1521
for three years. Application for renewal of a license shall be 1522
made at least ninety days before the expiration of the license 1523
in the same manner as for an initial license. The department 1524
shall renew the license if the applicant meets the requirements 1525
of this chapter and rules adopted under it. 1526

(C) Subject to Chapter 119. of the Revised Code, the 1527
department may suspend or revoke a license if the licensee made 1528
any material representation in the application for the license 1529
or no longer meets the requirements of this chapter or rules 1530
adopted under it. 1531

Sec. 3712.052. (A) As used in this division, "person" does 1532
not include a member of an interdisciplinary team, as defined in 1533
section 3712.01 of the Revised Code, or any individual who is 1534
employed by a person or public agency licensed under section 1535
3712.042 of the Revised Code. 1536

Except as provided in division (B) of this section, no 1537
person or public agency, other than a person or public agency 1538
licensed pursuant to section 3712.042 of the Revised Code, shall 1539
hold itself as operating a palliative care facility or operate a 1540
palliative care facility. 1541

(B) Division (A) of this section does not apply to any of 1542
the following: 1543

(1) A hospital; 1544

(2) A nursing home or residential care facility, as those 1545
terms are defined in section 3721.01 of the Revised Code; 1546

(3) A home health agency, if it provides services under 1547
contract with a person or public agency operating a palliative 1548
care facility licensed under section 3712.042 of the Revised 1549
Code; 1550

(4) A regional, state, or national nonprofit organization 1551
whose members are operators of palliative care facilities, 1552
individuals interested in palliative care facilities, or both, 1553
as long as the organization does not provide or represent that 1554
it operates a palliative care facility; 1555

<u>(5) A person or government entity certified under section</u>	1556
<u>5123.161 of the Revised Code as a supported living provider;</u>	1557
<u>(6) A residential facility licensed under section 5123.19</u>	1558
<u>of the Revised Code;</u>	1559
<u>(7) A respite care home certified under section 5126.05 of</u>	1560
<u>the Revised Code;</u>	1561
<u>(8) A person providing respite care under a family support</u>	1562
<u>services program established under section 5126.11 of the</u>	1563
<u>Revised Code;</u>	1564
<u>(9) A person or government entity providing respite care</u>	1565
<u>under a medicaid waiver component that the department of</u>	1566
<u>developmental disabilities administers pursuant to section</u>	1567
<u>5166.21 of the Revised Code;</u>	1568
<u>(10) A hospice care program licensed under section 3712.04</u>	1569
<u>of the Revised Code;</u>	1570
<u>(11) A terminal care facility for the homeless that has</u>	1571
<u>entered into an agreement under section 3712.07 of the Revised</u>	1572
<u>Code;</u>	1573
<u>(12) A pediatric respite care program licensed under</u>	1574
<u>section 3712.041 of the Revised Code.</u>	1575
<u>(C) The department of health shall petition the court of</u>	1576
<u>common pleas of any county in which a person or public agency,</u>	1577
<u>without a license granted under section 3712.042 of the Revised</u>	1578
<u>Code, is holding itself out as operating a palliative care</u>	1579
<u>facility, is operating a palliative care facility, or is</u>	1580
<u>representing a health program or agency as a palliative care</u>	1581
<u>facility, for an order enjoining that person or public agency</u>	1582
<u>from conducting those activities without a license. The court</u>	1583

has jurisdiction to grant injunctive relief on a showing that 1584
the respondent named in the petition is conducting those 1585
activities without a license. 1586

Any person or public agency may request the department to 1587
petition the court for injunctive relief under this division, 1588
and the department shall do so if it determines that the person 1589
or public agency named in the request is violating division (A) 1590
of this section. 1591

Sec. 3712.09. (A) As used in this section: 1592

(1) "Applicant" means a person who is under final 1593
consideration for employment with a hospice care program ~~or,~~ 1594
pediatric respite care program, or palliative care facility in a 1595
full-time, part-time, or temporary position that involves 1596
providing direct care to an older adult ~~or,~~ pediatric respite 1597
care patient, or palliative care patient. "Applicant" does not 1598
include a person who provides direct care as a volunteer without 1599
receiving or expecting to receive any form of remuneration other 1600
than reimbursement for actual expenses. 1601

(2) "Criminal records check" has the same meaning as in 1602
section 109.572 of the Revised Code. 1603

(3) "Older adult" means a person age sixty or older. 1604

(B) (1) Except as provided in division (I) of this section, 1605
the chief administrator of a hospice care program ~~or,~~ pediatric 1606
respite care program, or palliative care facility shall request 1607
that the superintendent of the bureau of criminal identification 1608
and investigation conduct a criminal records check of each 1609
applicant. If an applicant for whom a criminal records check 1610
request is required under this division does not present proof 1611
of having been a resident of this state for the five-year period 1612

immediately prior to the date the criminal records check is 1613
requested or provide evidence that within that five-year period 1614
the superintendent has requested information about the applicant 1615
from the federal bureau of investigation in a criminal records 1616
check, the chief administrator shall request that the 1617
superintendent obtain information from the federal bureau of 1618
investigation as part of the criminal records check of the 1619
applicant. Even if an applicant for whom a criminal records 1620
check request is required under this division presents proof of 1621
having been a resident of this state for the five-year period, 1622
the chief administrator may request that the superintendent 1623
include information from the federal bureau of investigation in 1624
the criminal records check. 1625

(2) A person required by division (B) (1) of this section 1626
to request a criminal records check shall do both of the 1627
following: 1628

(a) Provide to each applicant for whom a criminal records 1629
check request is required under that division a copy of the form 1630
prescribed pursuant to division (C) (1) of section 109.572 of the 1631
Revised Code and a standard fingerprint impression sheet 1632
prescribed pursuant to division (C) (2) of that section, and 1633
obtain the completed form and impression sheet from the 1634
applicant; 1635

(b) Forward the completed form and impression sheet to the 1636
superintendent of the bureau of criminal identification and 1637
investigation. 1638

(3) An applicant provided the form and fingerprint 1639
impression sheet under division (B) (2) (a) of this section who 1640
fails to complete the form or provide fingerprint impressions 1641
shall not be employed in any position for which a criminal 1642

records check is required by this section. 1643

(C) (1) Except as provided in rules adopted by the director 1644
of health in accordance with division (F) of this section and 1645
subject to division (C) (2) of this section, no hospice care 1646
program ~~or~~, pediatric respite care program, or palliative care 1647
facility shall employ a person in a position that involves 1648
providing direct care to an older adult ~~or~~, pediatric respite 1649
care patient, or palliative care patient if the person has been 1650
convicted of or pleaded guilty to any of the following: 1651

(a) A violation of section 2903.01, 2903.02, 2903.03, 1652
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1653
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1654
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1655
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 1656
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 1657
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 1658
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 1659
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code. 1660

(b) A violation of an existing or former law of this 1661
state, any other state, or the United States that is 1662
substantially equivalent to any of the offenses listed in 1663
division (C) (1) (a) of this section. 1664

(2) (a) A hospice care program ~~or~~, pediatric respite care 1665
program, or palliative care facility may employ conditionally an 1666
applicant for whom a criminal records check request is required 1667
under division (B) of this section prior to obtaining the 1668
results of a criminal records check regarding the individual, 1669
provided that the program or facility shall request a criminal 1670
records check regarding the individual in accordance with 1671
division (B) (1) of this section not later than five business 1672

days after the individual begins conditional employment. In the 1673
circumstances described in division (I) (2) of this section, a 1674
hospice care program ~~or~~, pediatric respite care program, or 1675
palliative care facility may employ conditionally an applicant 1676
who has been referred to the ~~hospice care program or pediatric~~ 1677
~~respite care program~~ facility by an employment service that 1678
supplies full-time, part-time, or temporary staff for positions 1679
involving the direct care of older adults ~~or~~, pediatric respite 1680
care patients, or palliative care patients and for whom, 1681
pursuant to that division, a criminal records check is not 1682
required under division (B) of this section. 1683

(b) A hospice care program ~~or~~, pediatric respite care 1684
program, or palliative care facility that employs an individual 1685
conditionally under authority of division (C) (2) (a) of this 1686
section shall terminate the individual's employment if the 1687
results of the criminal records check requested under division 1688
(B) of this section or described in division (I) (2) of this 1689
section, other than the results of any request for information 1690
from the federal bureau of investigation, are not obtained 1691
within the period ending thirty days after the date the request 1692
is made. Regardless of when the results of the criminal records 1693
check are obtained, if the results indicate that the individual 1694
has been convicted of or pleaded guilty to any of the offenses 1695
listed or described in division (C) (1) of this section, the 1696
program or facility shall terminate the individual's employment 1697
unless the program or facility chooses to employ the individual 1698
pursuant to division (F) of this section. Termination of 1699
employment under this division shall be considered just cause 1700
for discharge for purposes of division (D) (2) of section 4141.29 1701
of the Revised Code if the individual makes any attempt to 1702
deceive the program about the individual's criminal record. 1703

(D) (1) Each hospice care program ~~or,~~ pediatric respite care program, or palliative care facility shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C) (3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A hospice care program ~~or,~~ pediatric respite care program, or palliative care facility may charge an applicant a fee not exceeding the amount the program pays under division (D) (1) of this section. A program or facility may collect a fee only if both of the following apply:

(a) The program or facility notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medicaid program does not reimburse the program or facility the fee it pays under division (D) (1) of this section.

(E) The report of a criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the program or facility requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults ~~or,~~ pediatric

respite care patients, or palliative care patients that is owned 1733
or operated by the same entity that owns or operates the hospice 1734
care program ~~or~~, pediatric respite care program, or palliative 1735
care facility; 1736

(4) A court, hearing officer, or other necessary 1737
individual involved in a case dealing with a denial of 1738
employment of the applicant or dealing with employment or 1739
unemployment benefits of the applicant; 1740

(5) Any person to whom the report is provided pursuant to, 1741
and in accordance with, division (I)(1) or (2) of this section. 1742

(F) The director of health shall adopt rules in accordance 1743
with Chapter 119. of the Revised Code to implement this section. 1744
The rules shall specify circumstances under which a hospice care 1745
program ~~or~~, pediatric respite care program, or palliative care 1746
facility may employ a person who has been convicted of or 1747
pleaded guilty to an offense listed or described in division (C) 1748
(1) of this section but meets personal character standards set 1749
by the director. 1750

(G) The chief administrator of a hospice care program ~~or~~, 1751
pediatric respite care program, or palliative care facility 1752
shall inform each individual, at the time of initial application 1753
for a position that involves providing direct care to an older 1754
adult ~~or~~, pediatric respite care patient, or palliative care 1755
patient, that the individual is required to provide a set of 1756
fingerprint impressions and that a criminal records check is 1757
required to be conducted if the individual comes under final 1758
consideration for employment. 1759

(H) In a tort or other civil action for damages that is 1760
brought as the result of an injury, death, or loss to person or 1761

property caused by an individual who a hospice care program ~~or,~~ 1762
pediatric respite care program, or palliative care facility 1763
employs in a position that involves providing direct care to 1764
older adults ~~or,~~ pediatric respite care patients, or palliative 1765
care patients, all of the following shall apply: 1766

(1) If the program or facility employed the individual in 1767
good faith and reasonable reliance on the report of a criminal 1768
records check requested under this section, the program or 1769
facility shall not be found negligent solely because of its 1770
reliance on the report, even if the information in the report is 1771
determined later to have been incomplete or inaccurate; 1772

(2) If the program or facility employed the individual in 1773
good faith on a conditional basis pursuant to division (C) (2) of 1774
this section, the program or facility shall not be found 1775
negligent solely because it employed the individual prior to 1776
receiving the report of a criminal records check requested under 1777
this section; 1778

(3) If the program or facility in good faith employed the 1779
individual according to the personal character standards 1780
established in rules adopted under division (F) of this section, 1781
the program or facility shall not be found negligent solely 1782
because the individual prior to being employed had been 1783
convicted of or pleaded guilty to an offense listed or described 1784
in division (C) (1) of this section. 1785

(I) (1) The chief administrator of a hospice care program 1786
 ~~or,~~ pediatric respite care program, or palliative care facility 1787
is not required to request that the superintendent of the bureau 1788
of criminal identification and investigation conduct a criminal 1789
records check of an applicant if the applicant has been referred 1790
to the program by an employment service that supplies full-time, 1791

part-time, or temporary staff for positions involving the direct 1792
care of older adults~~or,~~ pediatric respite care patients, or 1793
palliative care patients and both of the following apply: 1794

(a) The chief administrator receives from the employment 1795
service or the applicant a report of the results of a criminal 1796
records check regarding the applicant that has been conducted by 1797
the superintendent within the one-year period immediately 1798
preceding the applicant's referral; 1799

(b) The report of the criminal records check demonstrates 1800
that the person has not been convicted of or pleaded guilty to 1801
an offense listed or described in division (C)(1) of this 1802
section, or the report demonstrates that the person has been 1803
convicted of or pleaded guilty to one or more of those offenses, 1804
but the hospice care program~~or,~~ pediatric respite care 1805
program, or palliative care facility chooses to employ the 1806
individual pursuant to division (F) of this section. 1807

(2) The chief administrator of a hospice care program~~or,~~ 1808
pediatric respite care program, or palliative care facility is 1809
not required to request that the superintendent of the bureau of 1810
criminal identification and investigation conduct a criminal 1811
records check of an applicant and may employ the applicant 1812
conditionally as described in this division, if the applicant 1813
has been referred to the program or facility by an employment 1814
service that supplies full-time, part-time, or temporary staff 1815
for positions involving the direct care of older adults~~or,~~ 1816
pediatric respite care patients, or palliative care patients and 1817
if the chief administrator receives from the employment service 1818
or the applicant a letter from the employment service that is on 1819
the letterhead of the employment service, dated, and signed by a 1820
supervisor or another designated official of the employment 1821

service and that states that the employment service has 1822
requested the superintendent to conduct a criminal records check 1823
regarding the applicant, that the requested criminal records 1824
check will include a determination of whether the applicant has 1825
been convicted of or pleaded guilty to any offense listed or 1826
described in division (C)(1) of this section, that, as of the 1827
date set forth on the letter, the employment service had not 1828
received the results of the criminal records check, and that, 1829
when the employment service receives the results of the criminal 1830
records check, it promptly will send a copy of the results to 1831
the hospice care program ~~or~~, pediatric respite care program, or 1832
palliative care facility. If a ~~hospice care program or pediatric~~ 1833
~~respite care program facility~~ employs an applicant conditionally 1834
in accordance with this division, the employment service, upon 1835
its receipt of the results of the criminal records check, 1836
promptly shall send a copy of the results to the ~~hospice care~~ 1837
~~program or pediatric respite care program facility~~, and division 1838
(C)(2)(b) of this section applies regarding the conditional 1839
employment. 1840

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 1841
and 3721.99 of the Revised Code: 1842

(1)(a) "Home" means an institution, residence, or facility 1843
that provides, for a period of more than twenty-four hours, 1844
whether for a consideration or not, accommodations to three or 1845
more unrelated individuals who are dependent upon the services 1846
of others, including a nursing home, residential care facility, 1847
home for the aging, and a veterans' home operated under Chapter 1848
5907. of the Revised Code. 1849

(b) "Home" also means both of the following: 1850

(i) Any facility that a person, as defined in section 1851

3702.51 of the Revised Code, proposes for certification as a 1852
skilled nursing facility or nursing facility under Title XVIII 1853
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 1854
U.S.C.A. 301, as amended, and for which a certificate of need, 1855
other than a certificate to recategorize hospital beds as 1856
described in section 3702.521 of the Revised Code or division 1857
(R) (7) (d) of the version of section 3702.51 of the Revised Code 1858
in effect immediately prior to April 20, 1995, has been granted 1859
to the person under sections 3702.51 to 3702.62 of the Revised 1860
Code after August 5, 1989; 1861

(ii) A county home or district home that is or has been 1862
licensed as a residential care facility. 1863

(c) "Home" does not mean any of the following: 1864

(i) Except as provided in division (A) (1) (b) of this 1865
section, a public hospital or hospital as defined in section 1866
3701.01 or 5122.01 of the Revised Code; 1867

(ii) A residential facility as defined in section 5119.34 1868
of the Revised Code; 1869

(iii) A residential facility as defined in section 5123.19 1870
of the Revised Code; 1871

(iv) A community addiction services provider as defined in 1872
section 5119.01 of the Revised Code; 1873

(v) A facility licensed to provide methadone treatment 1874
under section 5119.391 of the Revised Code; 1875

(vi) A facility providing services under contract with the 1876
department of developmental disabilities under section 5123.18 1877
of the Revised Code; 1878

(vii) A facility operated by a hospice care program 1879

licensed under section 3712.04 of the Revised Code that is used 1880
exclusively for care of hospice patients; 1881

(viii) A facility operated by a pediatric respite care 1882
program licensed under section 3712.041 of the Revised Code that 1883
is used exclusively for care of pediatric respite care patients; 1884

(ix) A palliative care facility licensed under section 1885
3712.042 of the Revised Code; 1886

(x) A facility, infirmary, or other entity that is 1887
operated by a religious order, provides care exclusively to 1888
members of religious orders who take vows of celibacy and live 1889
by virtue of their vows within the orders as if related, and 1890
does not participate in the medicare program or the medicaid 1891
program if on January 1, 1994, the facility, infirmary, or 1892
entity was providing care exclusively to members of the 1893
religious order; 1894

~~(x)~~ (xi) A county home or district home that has never 1895
been licensed as a residential care facility. 1896

(2) "Unrelated individual" means one who is not related to 1897
the owner or operator of a home or to the spouse of the owner or 1898
operator as a parent, grandparent, child, grandchild, brother, 1899
sister, niece, nephew, aunt, uncle, or as the child of an aunt 1900
or uncle. 1901

(3) "Mental impairment" does not mean mental illness as 1902
defined in section 5122.01 of the Revised Code or mental 1903
retardation as defined in section 5123.01 of the Revised Code. 1904

(4) "Skilled nursing care" means procedures that require 1905
technical skills and knowledge beyond those the untrained person 1906
possesses and that are commonly employed in providing for the 1907
physical, mental, and emotional needs of the ill or otherwise 1908

incapacitated. "Skilled nursing care" includes, but is not	1909
limited to, the following:	1910
(a) Irrigations, catheterizations, application of	1911
dressings, and supervision of special diets;	1912
(b) Objective observation of changes in the patient's	1913
condition as a means of analyzing and determining the nursing	1914
care required and the need for further medical diagnosis and	1915
treatment;	1916
(c) Special procedures contributing to rehabilitation;	1917
(d) Administration of medication by any method ordered by	1918
a physician, such as hypodermically, rectally, or orally,	1919
including observation of the patient after receipt of the	1920
medication;	1921
(e) Carrying out other treatments prescribed by the	1922
physician that involve a similar level of complexity and skill	1923
in administration.	1924
(5) (a) "Personal care services" means services including,	1925
but not limited to, the following:	1926
(i) Assisting residents with activities of daily living;	1927
(ii) Assisting residents with self-administration of	1928
medication, in accordance with rules adopted under section	1929
3721.04 of the Revised Code;	1930
(iii) Preparing special diets, other than complex	1931
therapeutic diets, for residents pursuant to the instructions of	1932
a physician or a licensed dietitian, in accordance with rules	1933
adopted under section 3721.04 of the Revised Code.	1934
(b) "Personal care services" does not include "skilled	1935

nursing care" as defined in division (A) (4) of this section. A 1936
facility need not provide more than one of the services listed 1937
in division (A) (5) (a) of this section to be considered to be 1938
providing personal care services. 1939

(6) "Nursing home" means a home used for the reception and 1940
care of individuals who by reason of illness or physical or 1941
mental impairment require skilled nursing care and of 1942
individuals who require personal care services but not skilled 1943
nursing care. A nursing home is licensed to provide personal 1944
care services and skilled nursing care. 1945

(7) "Residential care facility" means a home that provides 1946
either of the following: 1947

(a) Accommodations for seventeen or more unrelated 1948
individuals and supervision and personal care services for three 1949
or more of those individuals who are dependent on the services 1950
of others by reason of age or physical or mental impairment; 1951

(b) Accommodations for three or more unrelated 1952
individuals, supervision and personal care services for at least 1953
three of those individuals who are dependent on the services of 1954
others by reason of age or physical or mental impairment, and, 1955
to at least one of those individuals, any of the skilled nursing 1956
care authorized by section 3721.011 of the Revised Code. 1957

(8) "Home for the aging" means a home that provides 1958
services as a residential care facility and a nursing home, 1959
except that the home provides its services only to individuals 1960
who are dependent on the services of others by reason of both 1961
age and physical or mental impairment. 1962

The part or unit of a home for the aging that provides 1963
services only as a residential care facility is licensed as a 1964

residential care facility. The part or unit that may provide 1965
skilled nursing care beyond the extent authorized by section 1966
3721.011 of the Revised Code is licensed as a nursing home. 1967

(9) "County home" and "district home" mean a county home 1968
or district home operated under Chapter 5155. of the Revised 1969
Code. 1970

(B) The director of health may further classify homes. For 1971
the purposes of this chapter, any residence, institution, hotel, 1972
congregate housing project, or similar facility that meets the 1973
definition of a home under this section is such a home 1974
regardless of how the facility holds itself out to the public. 1975

(C) For purposes of this chapter, personal care services 1976
or skilled nursing care shall be considered to be provided by a 1977
facility if they are provided by a person employed by or 1978
associated with the facility or by another person pursuant to an 1979
agreement to which neither the resident who receives the 1980
services nor the resident's sponsor is a party. 1981

(D) Nothing in division (A) (4) of this section shall be 1982
construed to permit skilled nursing care to be imposed on an 1983
individual who does not require skilled nursing care. 1984

Nothing in division (A) (5) of this section shall be 1985
construed to permit personal care services to be imposed on an 1986
individual who is capable of performing the activity in question 1987
without assistance. 1988

(E) Division (A) (1) (c) (ix) of this section does not 1989
prohibit a facility, infirmary, or other entity described in 1990
that division from seeking licensure under sections 3721.01 to 1991
3721.09 of the Revised Code or certification under Title XVIII 1992
or XIX of the "Social Security Act." However, such a facility, 1993

infirmary, or entity that applies for licensure or certification 1994
must meet the requirements of those sections or titles and the 1995
rules adopted under them and obtain a certificate of need from 1996
the director of health under section 3702.52 of the Revised 1997
Code. 1998

(F) Nothing in this chapter, or rules adopted pursuant to 1999
it, shall be construed as authorizing the supervision, 2000
regulation, or control of the spiritual care or treatment of 2001
residents or patients in any home who rely upon treatment by 2002
prayer or spiritual means in accordance with the creed or tenets 2003
of any recognized church or religious denomination. 2004

Sec. 3795.01. As used in sections 3795.01, 3795.02, and 2005
3795.03 of the Revised Code: 2006

(A) "Assist suicide" or "assisting suicide" means 2007
knowingly doing either of the following, with the purpose of 2008
helping another person to commit or attempt suicide: 2009

(1) Providing the physical means by which the person 2010
commits or attempts to commit suicide; 2011

(2) Participating in a physical act by which the person 2012
commits or attempts to commit suicide. 2013

(B) "Certified nurse practitioner," "certified nurse- 2014
midwife," and "clinical nurse specialist" have the same meanings 2015
as in section 4723.01 of the Revised Code. 2016

(C) "CPR" has the same meaning as in section 2133.21 of 2017
the Revised Code. 2018

(D) "Health care" means any care, treatment, service, or 2019
procedure to maintain, diagnose, or treat a person's physical or 2020
mental condition. 2021

(E) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care. 2022
2023
2024

(F) "Health care facility" means any of the following: 2025

(1) A hospital; 2026

(2) A hospice care program, palliative care facility, or pediatric respite care program as defined in section 3712.01 of the Revised Code; 2027
2028
2029

(3) A nursing home; 2030

(4) A home health agency; 2031

(5) An intermediate care facility for individuals with intellectual disabilities. 2032
2033

(G) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities. 2034
2035
2036
2037
2038
2039

(H) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 2040
2041
2042

Sec. 3963.01. As used in this chapter: 2043

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity. 2044
2045
2046
2047

(B) "Basic health care services" has the same meaning as 2048

in division (A) of section 1751.01 of the Revised Code, except 2049
that it does not include any services listed in that division 2050
that are provided by a pharmacist or nursing home. 2051

(C) "Contracting entity" means any person that has a 2052
primary business purpose of contracting with participating 2053
providers for the delivery of health care services. 2054

(D) "Credentialing" means the process of assessing and 2055
validating the qualifications of a provider applying to be 2056
approved by a contracting entity to provide basic health care 2057
services, specialty health care services, or supplemental health 2058
care services to enrollees. 2059

(E) "Edit" means adjusting one or more procedure codes 2060
billed by a participating provider on a claim for payment or a 2061
practice that results in any of the following: 2062

(1) Payment for some, but not all of the procedure codes 2063
originally billed by a participating provider; 2064

(2) Payment for a different procedure code than the 2065
procedure code originally billed by a participating provider; 2066

(3) A reduced payment as a result of services provided to 2067
an enrollee that are claimed under more than one procedure code 2068
on the same service date. 2069

(F) "Electronic claims transport" means to accept and 2070
digitize claims or to accept claims already digitized, to place 2071
those claims into a format that complies with the electronic 2072
transaction standards issued by the United States department of 2073
health and human services pursuant to the "Health Insurance 2074
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 2075
U.S.C. 1320d, et seq., as those electronic standards are 2076
applicable to the parties and as those electronic standards are 2077

updated from time to time, and to electronically transmit those 2078
claims to the appropriate contracting entity, payer, or third- 2079
party administrator. 2080

(G) "Enrollee" means any person eligible for health care 2081
benefits under a health benefit plan, including an eligible 2082
recipient of medicaid, and includes all of the following terms: 2083

(1) "Enrollee" and "subscriber" as defined by section 2084
1751.01 of the Revised Code; 2085

(2) "Member" as defined by section 1739.01 of the Revised 2086
Code; 2087

(3) "Insured" and "plan member" pursuant to Chapter 3923. 2088
of the Revised Code; 2089

(4) "Beneficiary" as defined by section 3901.38 of the 2090
Revised Code. 2091

(H) "Health care contract" means a contract entered into, 2092
materially amended, or renewed between a contracting entity and 2093
a participating provider for the delivery of basic health care 2094
services, specialty health care services, or supplemental health 2095
care services to enrollees. 2096

(I) "Health care services" means basic health care 2097
services, specialty health care services, and supplemental 2098
health care services. 2099

(J) "Material amendment" means an amendment to a health 2100
care contract that decreases the participating provider's 2101
payment or compensation, changes the administrative procedures 2102
in a way that may reasonably be expected to significantly 2103
increase the provider's administrative expenses, or adds a new 2104
product. A material amendment does not include any of the 2105

following:	2106
(1) A decrease in payment or compensation resulting solely	2107
from a change in a published fee schedule upon which the payment	2108
or compensation is based and the date of applicability is	2109
clearly identified in the contract;	2110
(2) A decrease in payment or compensation that was	2111
anticipated under the terms of the contract, if the amount and	2112
date of applicability of the decrease is clearly identified in	2113
the contract;	2114
(3) An administrative change that may significantly	2115
increase the provider's administrative expense, the specific	2116
applicability of which is clearly identified in the contract;	2117
(4) Changes to an existing prior authorization,	2118
precertification, notification, or referral program that do not	2119
substantially increase the provider's administrative expense;	2120
(5) Changes to an edit program or to specific edits if the	2121
participating provider is provided notice of the changes	2122
pursuant to division (A) (1) of section 3963.04 of the Revised	2123
Code and the notice includes information sufficient for the	2124
provider to determine the effect of the change;	2125
(6) Changes to a health care contract described in	2126
division (B) of section 3963.04 of the Revised Code.	2127
(K) "Participating provider" means a provider that has a	2128
health care contract with a contracting entity and is entitled	2129
to reimbursement for health care services rendered to an	2130
enrollee under the health care contract.	2131
(L) "Payer" means any person that assumes the financial	2132
risk for the payment of claims under a health care contract or	2133

the reimbursement for health care services provided to enrollees 2134
by participating providers pursuant to a health care contract. 2135

(M) "Primary enrollee" means a person who is responsible 2136
for making payments for participation in a health care plan or 2137
an enrollee whose employment or other status is the basis of 2138
eligibility for enrollment in a health care plan. 2139

(N) "Procedure codes" includes the American medical 2140
association's current procedural terminology code, the American 2141
dental association's current dental terminology, and the centers 2142
for medicare and medicaid services health care common procedure 2143
coding system. 2144

(O) "Product" means one of the following types of 2145
categories of coverage for which a participating provider may be 2146
obligated to provide health care services pursuant to a health 2147
care contract: 2148

(1) A health maintenance organization or other product 2149
provided by a health insuring corporation; 2150

(2) A preferred provider organization; 2151

(3) Medicare; 2152

(4) Medicaid; 2153

(5) Workers' compensation. 2154

(P) "Provider" means a physician, podiatrist, dentist, 2155
chiropractor, optometrist, psychologist, physician assistant, 2156
advanced practice registered nurse, occupational therapist, 2157
massage therapist, physical therapist, licensed professional 2158
counselor, licensed professional clinical counselor, hearing aid 2159
dealer, orthotist, prosthetist, home health agency, hospice care 2160
program, pediatric respite care program, palliative care 2161

facility, or hospital, or a provider organization or physician-hospital organization that is acting exclusively as an administrator on behalf of a provider to facilitate the provider's participation in health care contracts. "Provider" does not mean a pharmacist, pharmacy, nursing home, or a provider organization or physician-hospital organization that leases the provider organization's or physician-hospital organization's network to a third party or contracts directly with employers or health and welfare funds.

(Q) "Specialty health care services" has the same meaning as in section 1751.01 of the Revised Code, except that it does not include any services listed in division (B) of section 1751.01 of the Revised Code that are provided by a pharmacist or a nursing home.

(R) "Supplemental health care services" has the same meaning as in division (B) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of the Revised Code:

(1) "Affiliate" means a business entity that is owned by, operated by, controlled by, or under common control with another business entity.

(2) "Communication" means a written or oral notification or advertisement that meets both of the following criteria, as applicable:

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic

means. 2191

(b) In the case of a notification or advertisement other 2192
than by telephone, either of the following conditions is met: 2193

(i) The notification or advertisement is followed by a 2194
telephone call from a telephone solicitor or salesperson. 2195

(ii) The notification or advertisement invites a response 2196
by telephone, and, during the course of that response, a 2197
telephone solicitor or salesperson attempts to make or makes a 2198
sale of goods or services. As used in division (A) (2) (b) (ii) of 2199
this section, "invites a response by telephone" excludes the 2200
mere listing or inclusion of a telephone number in a 2201
notification or advertisement. 2202

(3) "Gift, award, or prize" means anything of value that 2203
is offered or purportedly offered, or given or purportedly given 2204
by chance, at no cost to the receiver and with no obligation to 2205
purchase goods or services. As used in this division, "chance" 2206
includes a situation in which a person is guaranteed to receive 2207
an item and, at the time of the offer or purported offer, the 2208
telephone solicitor does not identify the specific item that the 2209
person will receive. 2210

(4) "Goods or services" means any real property or any 2211
tangible or intangible personal property, or services of any 2212
kind provided or offered to a person. "Goods or services" 2213
includes, but is not limited to, advertising; labor performed 2214
for the benefit of a person; personal property intended to be 2215
attached to or installed in any real property, regardless of 2216
whether it is so attached or installed; timeshare estates or 2217
licenses; and extended service contracts. 2218

(5) "Purchaser" means a person that is solicited to become 2219

or does become financially obligated as a result of a telephone solicitation. 2220
2221

(6) "Salesperson" means an individual who is employed, 2222
appointed, or authorized by a telephone solicitor to make 2223
telephone solicitations but does not mean any of the following: 2224

(a) An individual who comes within one of the exemptions 2225
in division (B) of this section; 2226

(b) An individual employed, appointed, or authorized by a 2227
person who comes within one of the exemptions in division (B) of 2228
this section; 2229

(c) An individual under a written contract with a person 2230
who comes within one of the exemptions in division (B) of this 2231
section, if liability for all transactions with purchasers is 2232
assumed by the person so exempted. 2233

(7) "Telephone solicitation" means a communication to a 2234
person that meets both of the following criteria: 2235

(a) The communication is initiated by or on behalf of a 2236
telephone solicitor or by a salesperson. 2237

(b) The communication either represents a price or the 2238
quality or availability of goods or services or is used to 2239
induce the person to purchase goods or services, including, but 2240
not limited to, inducement through the offering of a gift, 2241
award, or prize. 2242

(8) "Telephone solicitor" means a person that engages in 2243
telephone solicitation directly or through one or more 2244
salespersons either from a location in this state, or from a 2245
location outside this state to persons in this state. "Telephone 2246
solicitor" includes, but is not limited to, any such person that 2247

is an owner, operator, officer, or director of, partner in, or 2248
other individual engaged in the management activities of, a 2249
business. 2250

(B) A telephone solicitor is exempt from the provisions of 2251
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 2252
Code if the telephone solicitor is any one of the following: 2253

(1) A person engaging in a telephone solicitation that is 2254
a one-time or infrequent transaction not done in the course of a 2255
pattern of repeated transactions of a like nature; 2256

(2) A person engaged in telephone solicitation solely for 2257
religious or political purposes; a charitable organization, 2258
fund-raising counsel, or professional solicitor in compliance 2259
with the registration and reporting requirements of Chapter 2260
1716. of the Revised Code; or any person or other entity exempt 2261
under section 1716.03 of the Revised Code from filing a 2262
registration statement under section 1716.02 of the Revised 2263
Code; 2264

(3) A person, making a telephone solicitation involving a 2265
home solicitation sale as defined in section 1345.21 of the 2266
Revised Code, that makes the sales presentation and completes 2267
the sale at a later, face-to-face meeting between the seller and 2268
the purchaser rather than during the telephone solicitation. 2269
However, if the person, following the telephone solicitation, 2270
causes another person to collect the payment of any money, this 2271
exemption does not apply. 2272

(4) A licensed securities, commodities, or investment 2273
broker, dealer, investment advisor, or associated person when 2274
making a telephone solicitation within the scope of the person's 2275
license. As used in division (B)(4) of this section, "licensed 2276

securities, commodities, or investment broker, dealer, 2277
investment advisor, or associated person" means a person subject 2278
to licensure or registration as such by the securities and 2279
exchange commission; the National Association of Securities 2280
Dealers or other self-regulatory organization, as defined by 15 2281
U.S.C.A. 78c; by the division of securities under Chapter 1707. 2282
of the Revised Code; or by an official or agency of any other 2283
state of the United States. 2284

(5) (a) A person primarily engaged in soliciting the sale 2285
of a newspaper of general circulation; 2286

(b) As used in division (B) (5) (a) of this section, 2287
"newspaper of general circulation" includes, but is not limited 2288
to, both of the following: 2289

(i) A newspaper that is a daily law journal designated as 2290
an official publisher of court calendars pursuant to section 2291
2701.09 of the Revised Code; 2292

(ii) A newspaper or publication that has at least twenty- 2293
five per cent editorial, non-advertising content, exclusive of 2294
inserts, measured relative to total publication space, and an 2295
audited circulation to at least fifty per cent of the households 2296
in the newspaper's retail trade zone as defined by the audit. 2297

(6) (a) An issuer, or its subsidiary, that has a class of 2298
securities to which all of the following apply: 2299

(i) The class of securities is subject to section 12 of 2300
the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 2301
registered or is exempt from registration under 15 U.S.C.A. 2302
781(g) (2) (A), (B), (C), (E), (F), (G), or (H); 2303

(ii) The class of securities is listed on the New York 2304
stock exchange, the American stock exchange, or the NASDAQ 2305

national market system; 2306

(iii) The class of securities is a reported security as 2307
defined in 17 C.F.R. 240.11Aa3-1(a)(4). 2308

(b) An issuer, or its subsidiary, that formerly had a 2309
class of securities that met the criteria set forth in division 2310
(B)(6)(a) of this section if the issuer, or its subsidiary, has 2311
a net worth in excess of one hundred million dollars, files or 2312
its parent files with the securities and exchange commission an 2313
S.E.C. form 10-K, and has continued in substantially the same 2314
business since it had a class of securities that met the 2315
criteria in division (B)(6)(a) of this section. As used in 2316
division (B)(6)(b) of this section, "issuer" and "subsidiary" 2317
include the successor to an issuer or subsidiary. 2318

(7) A person soliciting a transaction regulated by the 2319
commodity futures trading commission, if the person is 2320
registered or temporarily registered for that activity with the 2321
commission under 7 U.S.C.A. 1 et seq. and the registration or 2322
temporary registration has not expired or been suspended or 2323
revoked; 2324

(8) A person soliciting the sale of any book, record, 2325
audio tape, compact disc, or video, if the person allows the 2326
purchaser to review the merchandise for at least seven days and 2327
provides a full refund within thirty days to a purchaser who 2328
returns the merchandise or if the person solicits the sale on 2329
behalf of a membership club operating in compliance with 2330
regulations adopted by the federal trade commission in 16 C.F.R. 2331
425; 2332

(9) A supervised financial institution or its subsidiary. 2333
As used in division (B)(9) of this section, "supervised 2334

financial institution" means a bank, trust company, savings and 2335
loan association, savings bank, credit union, industrial loan 2336
company, consumer finance lender, commercial finance lender, or 2337
institution described in section 2(c)(2)(F) of the "Bank Holding 2338
Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, 2339
supervised by an official or agency of the United States, this 2340
state, or any other state of the United States; or a licensee or 2341
registrant under sections 1321.01 to 1321.19, 1321.51 to 2342
1321.60, or 1321.71 to 1321.83 of the Revised Code. 2343

(10) (a) An insurance company, association, or other 2344
organization that is licensed or authorized to conduct business 2345
in this state by the superintendent of insurance pursuant to 2346
Title XXXIX of the Revised Code or Chapter 1751. of the Revised 2347
Code, when soliciting within the scope of its license or 2348
authorization. 2349

(b) A licensed insurance broker, agent, or solicitor when 2350
soliciting within the scope of the person's license. As used in 2351
division (B)(10)(b) of this section, "licensed insurance broker, 2352
agent, or solicitor" means any person licensed as an insurance 2353
broker, agent, or solicitor by the superintendent of insurance 2354
pursuant to Title XXXIX of the Revised Code. 2355

(11) A person soliciting the sale of services provided by 2356
a cable television system operating under authority of a 2357
governmental franchise or permit; 2358

(12) A person soliciting a business-to-business sale under 2359
which any of the following conditions are met: 2360

(a) The telephone solicitor has been operating 2361
continuously for at least three years under the same business 2362
name under which it solicits purchasers, and at least fifty-one 2363

per cent of its gross dollar volume of sales consists of repeat sales to existing customers to whom it has made sales under the same business name.

(b) The purchaser business intends to resell the goods purchased.

(c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or remanufacturing process.

(d) The telephone solicitor is a publisher of a periodical or of magazines distributed as controlled circulation publications as defined in division (CC) of section 5739.01 of the Revised Code and is soliciting sales of advertising, subscriptions, reprints, lists, information databases, conference participation or sponsorships, trade shows or media products related to the periodical or magazine, or other publishing services provided by the controlled circulation publication.

(13) A person that, not less often than once each year, publishes and delivers to potential purchasers a catalog that complies with both of the following:

(a) It includes all of the following:

(i) The business address of the seller;

(ii) A written description or illustration of each good or service offered for sale;

(iii) A clear and conspicuous disclosure of the sale price of each good or service; shipping, handling, and other charges; and return policy.

(b) One of the following applies:

(i) The catalog includes at least twenty-four pages of written material and illustrations, is distributed in more than one state, and has an annual postage-paid mail circulation of not less than two hundred fifty thousand households;

(ii) The catalog includes at least ten pages of written material or an equivalent amount of material in electronic form on the internet or an on-line computer service, the person does not solicit customers by telephone but solely receives telephone calls made in response to the catalog, and during the calls the person takes orders but does not engage in further solicitation of the purchaser. As used in division (B)(13)(b)(ii) of this section, "further solicitation" does not include providing the purchaser with information about, or attempting to sell, any other item in the catalog that prompted the purchaser's call or in a substantially similar catalog issued by the seller.

(14) A political subdivision or instrumentality of the United States, this state, or any state of the United States;

(15) A college or university or any other public or private institution of higher education in this state;

(16) A public utility as defined in section 4905.02 of the Revised Code or a retail natural gas supplier as defined in section 4929.01 of the Revised Code, if the utility or supplier is subject to regulation by the public utilities commission, or the affiliate of the utility or supplier;

(17) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or

service purchased within a period of at least seven days and to 2421
receive a full refund within thirty days after the purchaser 2422
returns the good or cancels the service; 2423

(18) (a) A person that, for at least one year, has been 2424
operating a retail business under the same name as that used in 2425
connection with telephone solicitation and both of the following 2426
occur on a continuing basis: 2427

(i) The person either displays goods and offers them for 2428
retail sale at the person's business premises or offers services 2429
for sale and provides them at the person's business premises. 2430

(ii) At least fifty-one per cent of the person's gross 2431
dollar volume of retail sales involves purchases of goods or 2432
services at the person's business premises. 2433

(b) An affiliate of a person that meets the requirements 2434
in division (B) (18) (a) of this section if the affiliate meets 2435
all of the following requirements: 2436

(i) The affiliate has operated a retail business for a 2437
period of less than one year; 2438

(ii) The affiliate either displays goods and offers them 2439
for retail sale at the affiliate's business premises or offers 2440
services for sale and provides them at the affiliate's business 2441
premises; 2442

(iii) At least fifty-one per cent of the affiliate's gross 2443
dollar volume of retail sales involves purchases of goods or 2444
services at the affiliate's business premises. 2445

(c) A person that, for a period of less than one year, has 2446
been operating a retail business in this state under the same 2447
name as that used in connection with telephone solicitation, as 2448

long as all of the following requirements are met: 2449

(i) The person either displays goods and offers them for 2450
retail sale at the person's business premises or offers services 2451
for sale and provides them at the person's business premises; 2452

(ii) The goods or services that are the subject of 2453
telephone solicitation are sold at the person's business 2454
premises, and at least sixty-five per cent of the person's gross 2455
dollar volume of retail sales involves purchases of goods or 2456
services at the person's business premises; 2457

(iii) The person conducts all telephone solicitation 2458
activities according to sections 310.3, 310.4, and 310.5 of the 2459
telemarketing sales rule adopted by the federal trade commission 2460
in 16 C.F.R. part 310. 2461

(19) A person who performs telephone solicitation sales 2462
services on behalf of other persons and to whom one of the 2463
following applies: 2464

(a) The person has operated under the same ownership, 2465
control, and business name for at least five years, and the 2466
person receives at least seventy-five per cent of its gross 2467
revenues from written telephone solicitation contracts with 2468
persons who come within one of the exemptions in division (B) of 2469
this section. 2470

(b) The person is an affiliate of one or more exempt 2471
persons and makes telephone solicitations on behalf of only the 2472
exempt persons of which it is an affiliate. 2473

(c) The person makes telephone solicitations on behalf of 2474
only exempt persons, the person and each exempt person on whose 2475
behalf telephone solicitations are made have entered into a 2476
written contract that specifies the manner in which the 2477

telephone solicitations are to be conducted and that at a 2478
minimum requires compliance with the telemarketing sales rule 2479
adopted by the federal trade commission in 16 C.F.R. part 310, 2480
and the person conducts the telephone solicitations in the 2481
manner specified in the written contract. 2482

(d) The person performs telephone solicitation for 2483
religious or political purposes, a charitable organization, a 2484
fund-raising council, or a professional solicitor in compliance 2485
with the registration and reporting requirements of Chapter 2486
1716. of the Revised Code; and meets all of the following 2487
requirements: 2488

(i) The person has operated under the same ownership, 2489
control, and business name for at least five years, and the 2490
person receives at least fifty-one per cent of its gross 2491
revenues from written telephone solicitation contracts with 2492
persons who come within the exemption in division (B) (2) of this 2493
section; 2494

(ii) The person does not conduct a prize promotion or 2495
offer the sale of an investment opportunity; 2496

(iii) The person conducts all telephone solicitation 2497
activities according to sections 310.3, 310.4, and 310.5 of the 2498
telemarketing sales rules adopted by the federal trade 2499
commission in 16 C.F.R. part 310. 2500

(20) A person that is a licensed real estate salesperson 2501
or broker under Chapter 4735. of the Revised Code when 2502
soliciting within the scope of the person's license; 2503

(21) (a) Either of the following: 2504

(i) A publisher that solicits the sale of the publisher's 2505
periodical or magazine of general, paid circulation, or a person 2506

that solicits a sale of that nature on behalf of a publisher 2507
under a written agreement directly between the publisher and the 2508
person. 2509

(ii) A publisher that solicits the sale of the publisher's 2510
periodical or magazine of general, paid circulation, or a person 2511
that solicits a sale of that nature as authorized by a publisher 2512
under a written agreement directly with a publisher's 2513
clearinghouse provided the person is a resident of Ohio for more 2514
than three years and initiates all telephone solicitations from 2515
Ohio and the person conducts the solicitation and sale in 2516
compliance with 16 C.F.R. part 310, as adopted by the federal 2517
trade commission. 2518

(b) As used in division (B) (21) of this section, 2519
"periodical or magazine of general, paid circulation" excludes a 2520
periodical or magazine circulated only as part of a membership 2521
package or given as a free gift or prize from the publisher or 2522
person. 2523

(22) A person that solicits the sale of food, as defined 2524
in section 3715.01 of the Revised Code, or the sale of products 2525
of horticulture, as defined in section 5739.01 of the Revised 2526
Code, if the person does not intend the solicitation to result 2527
in, or the solicitation actually does not result in, a sale that 2528
costs the purchaser an amount greater than five hundred dollars. 2529

(23) A funeral director licensed pursuant to Chapter 4717. 2530
of the Revised Code when soliciting within the scope of that 2531
license, if both of the following apply: 2532

(a) The solicitation and sale are conducted in compliance 2533
with 16 C.F.R. part 453, as adopted by the federal trade 2534
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 2535

the Revised Code; 2536

(b) The person provides to the purchaser of any preneed 2537
funeral contract a notice that clearly and conspicuously sets 2538
forth the cancellation rights specified in division (G) of 2539
section 1107.33 of the Revised Code, and retains a copy of the 2540
notice signed by the purchaser. 2541

(24) A person, or affiliate thereof, licensed to sell or 2542
issue Ohio instruments designated as travelers checks pursuant 2543
to sections 1315.01 to 1315.18 of the Revised Code. 2544

(25) A person that solicits sales from its previous 2545
purchasers and meets all of the following requirements: 2546

(a) The solicitation is made under the same business name 2547
that was previously used to sell goods or services to the 2548
purchaser; 2549

(b) The person has, for a period of not less than three 2550
years, operated a business under the same business name as that 2551
used in connection with telephone solicitation; 2552

(c) The person does not conduct a prize promotion or offer 2553
the sale of an investment opportunity; 2554

(d) The person conducts all telephone solicitation 2555
activities according to sections 310.3, 310.4, and 310.5 of the 2556
telemarketing sales rules adopted by the federal trade 2557
commission in 16 C.F.R. part 310; 2558

(e) Neither the person nor any of its principals has been 2559
convicted of, pleaded guilty to, or has entered a plea of no 2560
contest for a felony or a theft offense as defined in sections 2561
2901.02 and 2913.01 of the Revised Code or similar law of 2562
another state or of the United States; 2563

(f) Neither the person nor any of its principals has had 2564
entered against them an injunction or a final judgment or order, 2565
including an agreed judgment or order, an assurance of voluntary 2566
compliance, or any similar instrument, in any civil or 2567
administrative action involving engaging in a pattern of corrupt 2568
practices, fraud, theft, embezzlement, fraudulent conversion, or 2569
misappropriation of property; the use of any untrue, deceptive, 2570
or misleading representation; or the use of any unfair, 2571
unlawful, deceptive, or unconscionable trade act or practice. 2572

(26) An institution defined as a home health agency in 2573
section 3701.881 of the Revised Code, that conducts all 2574
telephone solicitation activities according to sections 310.3, 2575
310.4, and 310.5 of the telemarketing sales rules adopted by the 2576
federal trade commission in 16 C.F.R. part 310, and engages in 2577
telephone solicitation only within the scope of the 2578
institution's certification, accreditation, contract with the 2579
department of aging, or status as a home health agency; and that 2580
meets one of the following requirements: 2581

(a) The institution is certified as a provider of home 2582
health services under Title XVIII of the Social Security Act, 49 2583
Stat. 620, 42 U.S.C. 301, as amended; 2584

(b) The institution is accredited by either the joint 2585
~~commission on accreditation of health care organizations~~ or the 2586
community health accreditation program; 2587

(c) The institution is providing PASSPORT services under 2588
the direction of the department of aging under sections 173.52 2589
to 173.523 of the Revised Code; 2590

(d) An affiliate of an institution that meets the 2591
requirements of division (B) (26) (a), (b), or (c) of this section 2592

when offering for sale substantially the same goods and services 2593
as those that are offered by the institution that meets the 2594
requirements of division (B) (26) (a), (b), or (c) of this 2595
section. 2596

(27) A person licensed by the department of health 2597
pursuant to section 3712.04~~or~~, 3712.041, or 3712.042 of the 2598
Revised Code to provide a hospice care program or pediatric 2599
respite care program, or to operate a palliative care facility, 2600
when conducting telephone solicitations within the scope of the 2601
person's license and according to sections 310.3, 310.4, and 2602
310.5 of the telemarketing sales rules adopted by the federal 2603
trade commission in 16 C.F.R. part 310. 2604

Sec. 4723.36. (A) A certified nurse practitioner or 2605
clinical nurse specialist may determine and pronounce an 2606
individual's death, but only if the individual's respiratory and 2607
circulatory functions are not being artificially sustained and, 2608
at the time the determination and pronouncement of death is 2609
made, either or both of the following apply: 2610

(1) The individual was receiving care in one of the 2611
following: 2612

(a) A nursing home licensed under section 3721.02 of the 2613
Revised Code or by a political subdivision under section 3721.09 2614
of the Revised Code; 2615

(b) A residential care facility or home for the aging 2616
licensed under Chapter 3721. of the Revised Code; 2617

(c) A county home or district home operated pursuant to 2618
Chapter 5155. of the Revised Code; 2619

(d) A residential facility licensed under section 5123.19 2620
of the Revised Code. 2621

(2) The certified nurse practitioner or clinical nurse specialist is providing or supervising the individual's care at a palliative care facility or through a hospice care program licensed under Chapter 3712. of the Revised Code or any other entity that provides palliative care.

(B) A registered nurse may determine and pronounce an individual's death, but only if the individual's respiratory and circulatory functions are not being artificially sustained and, at the time the determination and pronouncement of death is made, the registered nurse is providing or supervising the individual's care at a palliative care facility licensed under section 3712.042 of the Revised Code, or through a hospice care program licensed under ~~Chapter 3712. section 3712.04~~ of the Revised Code or any other entity that provides palliative care.

(C) If a certified nurse practitioner, clinical nurse specialist, or registered nurse determines and pronounces an individual's death, the nurse shall comply with both of the following:

(1) The nurse shall not complete any portion of the individual's death certificate.

(2) The nurse shall notify the individual's attending physician of the determination and pronouncement of death in order for the physician to fulfill the physician's duties under section 3705.16 of the Revised Code. The nurse shall provide the notification within a period of time that is reasonable but not later than twenty-four hours following the determination and pronouncement of the individual's death.

Sec. 4723.481. This section establishes standards and conditions regarding the authority of a clinical nurse

specialist, certified nurse-midwife, or certified nurse 2651
practitioner to prescribe drugs and therapeutic devices under a 2652
certificate to prescribe issued under section 4723.48 of the 2653
Revised Code. 2654

(A) A clinical nurse specialist, certified nurse-midwife, 2655
or certified nurse practitioner shall not prescribe any drug or 2656
therapeutic device that is not included in the types of drugs 2657
and devices listed on the formulary established in rules adopted 2658
under section 4723.50 of the Revised Code. 2659

(B) The prescriptive authority of a clinical nurse 2660
specialist, certified nurse-midwife, or certified nurse 2661
practitioner shall not exceed the prescriptive authority of the 2662
collaborating physician or podiatrist, including the 2663
collaborating physician's authority to treat chronic pain with 2664
controlled substances and products containing tramadol as 2665
described in section 4731.052 of the Revised Code. 2666

(C) (1) Except as provided in division (C) (2) or (3) of 2667
this section, a clinical nurse specialist, certified nurse- 2668
midwife, or certified nurse practitioner may prescribe to a 2669
patient a schedule II controlled substance only if all of the 2670
following are the case: 2671

(a) The patient has a terminal condition, as defined in 2672
section 2133.01 of the Revised Code. 2673

(b) The collaborating physician of the clinical nurse 2674
specialist, certified nurse-midwife, or certified nurse 2675
practitioner initially prescribed the substance for the patient. 2676

(c) The prescription is for an amount that does not exceed 2677
the amount necessary for the patient's use in a single, twenty- 2678
four-hour period. 2679

(2) The restrictions on prescriptive authority in division 2680
(C) (1) of this section do not apply if a clinical nurse 2681
specialist, certified nurse-midwife, or certified nurse 2682
practitioner issues the prescription to the patient from any of 2683
the following locations: 2684

(a) A hospital registered under section 3701.07 of the 2685
Revised Code; 2686

(b) An entity owned or controlled, in whole or in part, by 2687
a hospital or by an entity that owns or controls, in whole or in 2688
part, one or more hospitals; 2689

(c) A health care facility operated by the department of 2690
mental health and addiction services or the department of 2691
developmental disabilities; 2692

(d) A nursing home licensed under section 3721.02 of the 2693
Revised Code or by a political subdivision certified under 2694
section 3721.09 of the Revised Code; 2695

(e) A county home or district home operated under Chapter 2696
5155. of the Revised Code that is certified under the medicare 2697
or medicaid program; 2698

(f) A hospice care program or palliative care facility, as 2699
defined in section 3712.01 of the Revised Code; 2700

(g) A community mental health services provider, as 2701
defined in section 5122.01 of the Revised Code; 2702

(h) An ambulatory surgical facility, as defined in section 2703
3702.30 of the Revised Code; 2704

(i) A freestanding birthing center, as defined in section 2705
3702.141 of the Revised Code; 2706

(j) A federally qualified health center, as defined in 2707
section 3701.047 of the Revised Code; 2708

(k) A federally qualified health center look-alike, as 2709
defined in section 3701.047 of the Revised Code; 2710

(l) A health care office or facility operated by the board 2711
of health of a city or general health district or the authority 2712
having the duties of a board of health under section 3709.05 of 2713
the Revised Code; 2714

(m) A site where a medical practice is operated, but only 2715
if the practice is comprised of one or more physicians who also 2716
are owners of the practice; the practice is organized to provide 2717
direct patient care; and the clinical nurse specialist, 2718
certified nurse-midwife, or certified nurse practitioner 2719
providing services at the site has a standard care arrangement 2720
and collaborates with at least one of the physician owners who 2721
practices primarily at that site. 2722

(3) A clinical nurse specialist, certified nurse-midwife, 2723
or certified nurse practitioner shall not issue to a patient a 2724
prescription for a schedule II controlled substance from a 2725
convenience care clinic even if the clinic is owned or operated 2726
by an entity specified in division (C) (2) of this section. 2727

(D) A pharmacist who acts in good faith reliance on a 2728
prescription issued by a clinical nurse specialist, certified 2729
nurse-midwife, or certified nurse practitioner under division 2730
(C) (2) of this section is not liable for or subject to any of 2731
the following for relying on the prescription: damages in any 2732
civil action, prosecution in any criminal proceeding, or 2733
professional disciplinary action by the state board of pharmacy 2734
under Chapter 4729. of the Revised Code. 2735

(E) A clinical nurse specialist, certified nurse-midwife, 2736
or certified nurse practitioner may personally furnish to a 2737
patient a sample of any drug or therapeutic device included in 2738
the types of drugs and devices listed on the formulary, except 2739
that all of the following conditions apply: 2740

(1) The amount of the sample furnished shall not exceed a 2741
seventy-two-hour supply, except when the minimum available 2742
quantity of the sample is packaged in an amount that is greater 2743
than a seventy-two-hour supply, in which case the packaged 2744
amount may be furnished. 2745

(2) No charge may be imposed for the sample or for 2746
furnishing it. 2747

(3) Samples of controlled substances may not be personally 2748
furnished. 2749

(F) A clinical nurse specialist, certified nurse-midwife, 2750
or certified nurse practitioner may personally furnish to a 2751
patient a complete or partial supply of a drug or therapeutic 2752
device included in the types of drugs and devices listed on the 2753
formulary, except that all of the following conditions apply: 2754

(1) The clinical nurse specialist, certified nurse- 2755
midwife, or certified nurse practitioner shall personally 2756
furnish only antibiotics, antifungals, scabicides, 2757
contraceptives, prenatal vitamins, antihypertensives, drugs and 2758
devices used in the treatment of diabetes, drugs and devices 2759
used in the treatment of asthma, and drugs used in the treatment 2760
of dyslipidemia. 2761

(2) The clinical nurse specialist, certified nurse- 2762
midwife, or certified nurse practitioner shall not furnish the 2763
drugs and devices in locations other than a health department 2764

operated by the board of health of a city or general health 2765
district or the authority having the duties of a board of health 2766
under section 3709.05 of the Revised Code, a federally funded 2767
comprehensive primary care clinic, or a nonprofit health care 2768
clinic or program. 2769

(3) The clinical nurse specialist, certified nurse- 2770
midwife, or certified nurse practitioner shall comply with all 2771
safety standards for personally furnishing supplies of drugs and 2772
devices, as established in rules adopted under section 4723.50 2773
of the Revised Code. 2774

(G) A clinical nurse specialist, certified nurse-midwife, 2775
or certified nurse practitioner shall comply with section 2776
3719.061 of the Revised Code if the nurse prescribes for a 2777
minor, as defined in that section, an opioid analgesic, as 2778
defined in section 3719.01 of the Revised Code. 2779

Sec. 4723.487. (A) As used in this section: 2780

(1) "Drug database" means the database established and 2781
maintained by the state board of pharmacy pursuant to section 2782
4729.75 of the Revised Code. 2783

(2) "Opioid analgesic" and "benzodiazepine" have the same 2784
meanings as in section 3719.01 of the Revised Code. 2785

(B) Except as provided in divisions (C) and (E) of this 2786
section, an advanced practice registered nurse holding a 2787
certificate to prescribe issued under this chapter shall comply 2788
with all of the following as conditions of prescribing a drug 2789
that is either an opioid analgesic or a benzodiazepine as part 2790
of a patient's course of treatment for a particular condition: 2791

(1) Before initially prescribing the drug, the nurse or 2792
the nurse's delegate shall request from the drug database a 2793

report of information related to the patient that covers at 2794
least the twelve months immediately preceding the date of the 2795
request. If the nurse practices primarily in a county of this 2796
state that adjoins another state, the nurse or delegate also 2797
shall request a report of any information available in the drug 2798
database that pertains to prescriptions issued or drugs 2799
furnished to the patient in the state adjoining that county. 2800

(2) If the patient's course of treatment for the condition 2801
continues for more than ninety days after the initial report is 2802
requested, the nurse or delegate shall make periodic requests 2803
for reports of information from the drug database until the 2804
course of treatment has ended. The requests shall be made at 2805
intervals not exceeding ninety days, determined according to the 2806
date the initial request was made. The request shall be made in 2807
the same manner provided in division (B)(1) of this section for 2808
requesting the initial report of information from the drug 2809
database. 2810

(3) On receipt of a report under division (B)(1) or (2) of 2811
this section, the nurse shall assess the information in the 2812
report. The nurse shall document in the patient's record that 2813
the report was received and the information was assessed. 2814

(C) Division (B) of this section does not apply if in any 2815
of the following circumstances: 2816

(1) A drug database report regarding the patient is not 2817
available, in which case the nurse shall document in the 2818
patient's record the reason that the report is not available. 2819

(2) The drug is prescribed in an amount indicated for a 2820
period not to exceed seven days. 2821

(3) The drug is prescribed for the treatment of cancer or 2822

another condition associated with cancer. 2823

(4) The drug is prescribed to a hospice patient in a 2824
hospice care program or to a palliative care patient in a 2825
palliative care facility, as those terms are defined in section 2826
3712.01 of the Revised Code, or to any other patient diagnosed 2827
as terminally ill. 2828

(5) The drug is prescribed for administration in a 2829
hospital, nursing home, or residential care facility. 2830

(D) The board of nursing may adopt rules, in accordance 2831
with Chapter 119. of the Revised Code, that establish standards 2832
and procedures to be followed by an advanced practice registered 2833
nurse with a certificate to prescribe issued under section 2834
4723.48 of the Revised Code regarding the review of patient 2835
information available through the drug database under division 2836
(A) (5) of section 4729.80 of the Revised Code. The rules shall 2837
be adopted in accordance with Chapter 119. of the Revised Code. 2838

(E) This section and any rules adopted under it do not 2839
apply if the state board of pharmacy no longer maintains the 2840
drug database. 2841

Sec. 4729.43. (A) As used in this section: 2842

(1) "Home health agency" has the same meaning as in 2843
section 3701.881 of the Revised Code. 2844

(2) "Hospice care program," ~~and~~ "hospice patient," 2845
"palliative care facility," and "palliative care patient" have 2846
the same meanings as in section 3712.01 of the Revised Code. 2847

(B) With regard to a dangerous drug that is indicated for 2848
the treatment of cancer or a cancer-related illness, must be 2849
administered intravenously or by subcutaneous injection, and 2850

cannot reasonably be self-administered by the patient to whom 2851
the drug is prescribed or by an individual assisting the patient 2852
with the self-administration, a pharmacist or pharmacy intern 2853
shall not dispense the drug by delivering the drug directly to 2854
any of the following or causing the drug to be delivered 2855
directly to any of the following: 2856

(1) The patient; 2857

(2) The patient's representative, which may include the 2858
patient's guardian or a family member or friend of the patient; 2859

(3) The patient's private residence unless any of the 2860
following is the case: 2861

(a) The patient's private residence is a nursing home, 2862
residential care facility, rehabilitation facility, palliative 2863
care facility, or similar institutional facility or health care 2864
facility. 2865

(b) If the patient is an adult and a hospice patient or 2866
client of a home health agency, the patient, the licensed health 2867
professional authorized to prescribe drugs who prescribed the 2868
drug to the patient, or an employee or agent of the prescriber 2869
has notified the pharmacist or pharmacy intern that the patient 2870
is a hospice patient or client of a home health agency and an 2871
employee or agent of the hospice care program or home health 2872
agency will be administering the drug to the patient. 2873

(c) If the patient is a minor and a hospice patient or 2874
client of a home health agency, either of the following has 2875
notified the pharmacist or pharmacy intern that the patient is a 2876
client of a home health agency and an employee or agent of the 2877
hospice care program or home health agency will be administering 2878
the drug to the patient: 2879

(i) The licensed health professional authorized to 2880
prescribe drugs who prescribed the drug to the patient or an 2881
employee or agent of the prescriber; 2882

(ii) The parent, guardian, or other person who has care or 2883
charge of the patient and is authorized to consent to medical 2884
treatment on behalf of the patient. 2885

Sec. 4730.202. (A) A physician assistant may determine and 2886
pronounce an individual's death, but only if the individual's 2887
respiratory and circulatory functions are not being artificially 2888
sustained and, at the time the determination and pronouncement 2889
of death is made, either or both of the following apply: 2890

(1) The individual was receiving care in one of the 2891
following: 2892

(a) A nursing home licensed under section 3721.02 of the 2893
Revised Code or by a political subdivision under section 3721.09 2894
of the Revised Code; 2895

(b) A residential care facility or home for the aging 2896
licensed under Chapter 3721. of the Revised Code; 2897

(c) A county home or district home operated pursuant to 2898
Chapter 5155. of the Revised Code; 2899

(d) A residential facility licensed under section 5123.19 2900
of the Revised Code; 2901

(e) A palliative care facility licensed under section 2902
3712.042 of the Revised Code. 2903

(2) The physician assistant is providing or supervising 2904
the individual's care through a hospice care program licensed 2905
under Chapter 3712. of the Revised Code or any other entity that 2906
provides palliative care other than a palliative care facility. 2907

(B) If a physician assistant determines and pronounces an individual's death, the physician assistant shall comply with both of the following:

(1) The physician assistant shall not complete any portion of the individual's death certificate.

(2) The physician assistant shall notify the individual's attending physician of the determination and pronouncement of death in order for the physician to fulfill the physician's duties under section 3705.16 of the Revised Code. The physician assistant shall provide the notification within a period of time that is reasonable but not later than twenty-four hours following the determination and pronouncement of the individual's death.

Sec. 4730.411. (A) Except as provided in division (B) or (C) of this section, a physician assistant may prescribe to a patient a schedule II controlled substance only if all of the following are the case:

(1) The patient is in a terminal condition, as defined in section 2133.01 of the Revised Code.

(2) The physician assistant's supervising physician initially prescribed the substance for the patient.

(3) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four-hour period.

(B) The restrictions on prescriptive authority in division (A) of this section do not apply if a physician assistant issues the prescription to the patient from any of the following locations:

- (1) A hospital registered under section 3701.07 of the Revised Code; 2936
2937
- (2) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals; 2938
2939
2940
- (3) A health care facility operated by the department of mental health and addiction services or the department of developmental disabilities; 2941
2942
2943
- (4) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code; 2944
2945
2946
- (5) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program; 2947
2948
2949
- (6) A hospice care program or palliative care facility, as defined in section 3712.01 of the Revised Code; 2950
2951
- (7) A community mental health services provider, as defined in section 5122.01 of the Revised Code; 2952
2953
- (8) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code; 2954
2955
- (9) A freestanding birthing center, as defined in section 3702.141 of the Revised Code; 2956
2957
- (10) A federally qualified health center, as defined in section 3701.047 of the Revised Code; 2958
2959
- (11) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code; 2960
2961
- (12) A health care office or facility operated by the 2962

board of health of a city or general health district or the 2963
authority having the duties of a board of health under section 2964
3709.05 of the Revised Code; 2965

(13) A site where a medical practice is operated, but only 2966
if the practice is comprised of one or more physicians who also 2967
are owners of the practice; the practice is organized to provide 2968
direct patient care; and the physician assistant has entered 2969
into a supervisory agreement with at least one of the physician 2970
owners who practices primarily at that site. 2971

(C) A physician assistant shall not issue to a patient a 2972
prescription for a schedule II controlled substance from a 2973
convenience care clinic even if the convenience care clinic is 2974
owned or operated by an entity specified in division (B) of this 2975
section. 2976

(D) A pharmacist who acts in good faith reliance on a 2977
prescription issued by a physician assistant under division (B) 2978
of this section is not liable for or subject to any of the 2979
following for relying on the prescription: damages in any civil 2980
action, prosecution in any criminal proceeding, or professional 2981
disciplinary action by the state board of pharmacy under Chapter 2982
4729. of the Revised Code. 2983

Sec. 4730.53. (A) As used in this section: 2984

(1) "Drug database" means the database established and 2985
maintained by the state board of pharmacy pursuant to section 2986
4729.75 of the Revised Code. 2987

(2) "Opioid analgesic" and "benzodiazepine" have the same 2988
meanings as in section 3719.01 of the Revised Code. 2989

(B) Except as provided in divisions (C) and (E) of this 2990
section, a physician assistant licensed under this chapter who 2991

has been granted physician-delegated prescriptive authority 2992
shall comply with all of the following as conditions of 2993
prescribing a drug that is either an opioid analgesic or a 2994
benzodiazepine as part of a patient's course of treatment for a 2995
particular condition: 2996

(1) Before initially prescribing the drug, the physician 2997
assistant or the physician assistant's delegate shall request 2998
from the drug database a report of information related to the 2999
patient that covers at least the twelve months immediately 3000
preceding the date of the request. If the physician assistant 3001
practices primarily in a county of this state that adjoins 3002
another state, the physician assistant or delegate also shall 3003
request a report of any information available in the drug 3004
database that pertains to prescriptions issued or drugs 3005
furnished to the patient in the state adjoining that county. 3006

(2) If the patient's course of treatment for the condition 3007
continues for more than ninety days after the initial report is 3008
requested, the physician assistant or delegate shall make 3009
periodic requests for reports of information from the drug 3010
database until the course of treatment has ended. The requests 3011
shall be made at intervals not exceeding ninety days, determined 3012
according to the date the initial request was made. The request 3013
shall be made in the same manner provided in division (B)(1) of 3014
this section for requesting the initial report of information 3015
from the drug database. 3016

(3) On receipt of a report under division (B)(1) or (2) of 3017
this section, the physician assistant shall assess the 3018
information in the report. The physician assistant shall 3019
document in the patient's record that the report was received 3020
and the information was assessed. 3021

(C) Division (B) of this section does not apply in any of 3022
the following circumstances: 3023

(1) A drug database report regarding the patient is not 3024
available, in which case the physician assistant shall document 3025
in the patient's record the reason that the report is not 3026
available. 3027

(2) The drug is prescribed in an amount indicated for a 3028
period not to exceed seven days. 3029

(3) The drug is prescribed for the treatment of cancer or 3030
another condition associated with cancer. 3031

(4) The drug is prescribed to a hospice patient in a 3032
hospice care program or to a palliative care patient in a 3033
palliative care facility, as those terms are defined in section 3034
3712.01 of the Revised Code, or to any other patient diagnosed 3035
as terminally ill. 3036

(5) The drug is prescribed for administration in a 3037
hospital, nursing home, or residential care facility. 3038

(D) The state medical board may adopt rules that establish 3039
standards and procedures to be followed by a physician assistant 3040
licensed under this chapter who has been granted physician- 3041
delegated prescriptive authority regarding the review of patient 3042
information available through the drug database under division 3043
(A) (5) of section 4729.80 of the Revised Code. The rules shall 3044
be adopted in accordance with Chapter 119. of the Revised Code. 3045

(E) This section and any rules adopted under it do not 3046
apply if the state board of pharmacy no longer maintains the 3047
drug database. 3048

Sec. 4731.055. (A) As used in this section: 3049

(1) "Drug database" means the database established and 3050
maintained by the state board of pharmacy pursuant to section 3051
4729.75 of the Revised Code. 3052

(2) "Physician" means an individual authorized under this 3053
chapter to practice medicine and surgery, osteopathic medicine 3054
and surgery, or podiatric medicine and surgery. 3055

(3) "Opioid analgesic" and "benzodiazepine" have the same 3056
meanings as in section 3719.01 of the Revised Code. 3057

(B) Except as provided in divisions (C) and (E) of this 3058
section, a physician shall comply with all of the following as 3059
conditions of prescribing a drug that is either an opioid 3060
analgesic or a benzodiazepine, or personally furnishing a 3061
complete or partial supply of such a drug, as part of a 3062
patient's course of treatment for a particular condition: 3063

(1) Before initially prescribing or furnishing the drug, 3064
the physician or the physician's delegate shall request from the 3065
drug database a report of information related to the patient 3066
that covers at least the twelve months immediately preceding the 3067
date of the request. If the physician practices primarily in a 3068
county of this state that adjoins another state, the physician 3069
or delegate also shall request a report of any information 3070
available in the drug database that pertains to prescriptions 3071
issued or drugs furnished to the patient in the state adjoining 3072
that county. 3073

(2) If the patient's course of treatment for the condition 3074
continues for more than ninety days after the initial report is 3075
requested, the physician or delegate shall make periodic 3076
requests for reports of information from the drug database until 3077
the course of treatment has ended. The requests shall be made at 3078

intervals not exceeding ninety days, determined according to the 3079
date the initial request was made. The request shall be made in 3080
the same manner provided in division (B) (1) of this section for 3081
requesting the initial report of information from the drug 3082
database. 3083

(3) On receipt of a report under division (B) (1) or (2) of 3084
this section, the physician shall assess the information in the 3085
report. The physician shall document in the patient's record 3086
that the report was received and the information was assessed. 3087

(C) Division (B) of this section does not apply in any of 3088
the following circumstances: 3089

(1) A drug database report regarding the patient is not 3090
available, in which case the physician shall document in the 3091
patient's record the reason that the report is not available. 3092

(2) The drug is prescribed or personally furnished in an 3093
amount indicated for a period not to exceed seven days. 3094

(3) The drug is prescribed or personally furnished for the 3095
treatment of cancer or another condition associated with cancer. 3096

(4) The drug is prescribed or personally furnished to a 3097
hospice patient in a hospice care program or to a palliative 3098
care patient in a palliative care facility, as those terms are 3099
defined in section 3712.01 of the Revised Code, or to any other 3100
patient diagnosed as terminally ill. 3101

(5) The drug is prescribed or personally furnished for 3102
administration in a hospital, nursing home, or residential care 3103
facility. 3104

(6) The drug is prescribed or personally furnished to 3105
treat acute pain resulting from a surgical or other invasive 3106

procedure or a delivery. 3107

(D) The state medical board may adopt rules that establish 3108
standards and procedures to be followed by a physician regarding 3109
the review of patient information available through the drug 3110
database under division (A) (5) of section 4729.80 of the Revised 3111
Code. The rules shall be adopted in accordance with Chapter 119. 3112
of the Revised Code. 3113

(E) This section and any rules adopted under it do not 3114
apply if the state board of pharmacy no longer maintains the 3115
drug database. 3116

Sec. 4731.228. (A) As used in this section: 3117

(1) "Federally qualified health center" has the same 3118
meaning as in section 3701.047 of the Revised Code. 3119

(2) "Federally qualified health center look-alike" has the 3120
same meaning as in section 3701.047 of the Revised Code. 3121

(3) "Health care entity" means any of the following that 3122
employs a physician to provide physician services: 3123

(a) A hospital registered with the department of health 3124
under section 3701.07 of the Revised Code; 3125

(b) A corporation formed under division (B) of section 3126
1701.03 of the Revised Code; 3127

(c) A corporation formed under Chapter 1702. of the 3128
Revised Code; 3129

(d) A limited liability company formed under Chapter 1705. 3130
of the Revised Code; 3131

(e) A health insuring corporation holding a certificate of 3132
authority under Chapter 1751. of the Revised Code; 3133

(f) A partnership;	3134
(g) A professional association formed under Chapter 1785. of the Revised Code.	3135 3136
(4) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.	3137 3138 3139
(5) "Physician services" means direct patient care services provided by a physician pursuant to a certificate issued to the physician by the state medical board.	3140 3141 3142
(6) "Termination" means the end of a physician's employment with a health care entity for any reason.	3143 3144
(B) This section applies when a physician's employment with a health care entity to provide physician services is terminated for any reason, unless the physician continues to provide medical services for patients of the health care entity on an independent contractor basis.	3145 3146 3147 3148 3149
(C) (1) Except as provided in division (C) (2) of this section, a health care entity shall send notice of the termination of a physician's employment to each patient who received physician services from the physician in the two-year period immediately preceding the date of employment termination. Only patients of the health care entity who received services from the physician are to receive the notice.	3150 3151 3152 3153 3154 3155 3156
(2) If the health care entity provides to the physician a list of patients treated and patient contact information, the health care entity may require the physician to send the notice required by this section.	3157 3158 3159 3160
(D) The notice provided under division (C) of this section	3161

shall be provided not later than the date of termination or 3162
thirty days after the health care entity has actual knowledge of 3163
termination or resignation of the physician, whichever is later. 3164
The notice shall be provided in accordance with rules adopted by 3165
the state medical board under section 4731.05 of the Revised 3166
Code. The notice shall include at least all of the following: 3167

(1) A notice to the patient that the physician will no 3168
longer be practicing medicine as an employee of the health care 3169
entity; 3170

(2) Except in situations in which the health care entity 3171
has a good faith concern that the physician's conduct or the 3172
medical care provided by the physician would jeopardize the 3173
health and safety of patients, the physician's name and, if 3174
known by the health care entity, information provided by the 3175
physician that the patient may use to contact the physician; 3176

(3) The date on which the physician ceased or will cease 3177
to practice as an employee of the health care entity; 3178

(4) Contact information for an alternative physician or 3179
physicians employed by the health care entity or contact 3180
information for a group practice that can provide care for the 3181
patient; 3182

(5) Contact information that enables the patient to obtain 3183
information on the patient's medical records. 3184

(E) The requirements of this section do not apply to any 3185
of the following: 3186

(1) A physician rendering services to a patient on an 3187
episodic basis or in an emergency department or urgent care 3188
center, when it should not be reasonably expected that related 3189
medical services will be rendered by the physician to the 3190

patient in the future; 3191

(2) A medical director or other physician providing 3192
services in a similar capacity to a medical director to patients 3193
through a hospice care program licensed pursuant to section 3194
3712.04 of the Revised Code or a palliative care facility 3195
licensed pursuant to section 3712.042 of the Revised Code. 3196

(3) Medical residents, interns, and fellows who work in 3197
hospitals, health systems, federally qualified health centers, 3198
and federally qualified health center look-alikes as part of 3199
their medical education and training. 3200

(4) A physician providing services to a patient through a 3201
community mental health agency certified by the director of 3202
mental health under section 5119.611 of the Revised Code or an 3203
alcohol and drug addiction program certified by the department 3204
of alcohol and drug addiction services under section 3793.06 of 3205
the Revised Code. 3206

(5) A physician providing services to a patient through a 3207
federally qualified health center or a federally qualified 3208
health center look-alike. 3209

Sec. 4752.02. (A) Except as provided in division (B) of 3210
this section, no person shall provide home medical equipment 3211
services or claim to the public to be a home medical equipment 3212
services provider unless either of the following is the case: 3213

(1) The person holds a valid license issued under this 3214
chapter; 3215

(2) The person holds a valid certificate of registration 3216
issued under this chapter. 3217

(B) Division (A) of this section does not apply to any of 3218

the following:	3219
(1) A health care practitioner, as defined in section 4769.01 of the Revised Code, who does not sell or rent home medical equipment;	3220 3221 3222
(2) A hospital that provides home medical equipment services only as an integral part of patient care and does not provide the services through a separate entity that has its own medicare or medicaid provider number;	3223 3224 3225 3226
(3) A manufacturer or wholesale distributor of home medical equipment that does not sell directly to the public;	3227 3228
(4) A hospice care program or, pediatric respite care program, or palliative care facility, as defined by section 3712.01 of the Revised Code, that does not sell or rent home medical equipment;	3229 3230 3231 3232
(5) A home, as defined by section 3721.01 of the Revised Code;	3233 3234
(6) A home health agency that is certified under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as a provider of home health services and does not sell or rent home medical equipment;	3235 3236 3237 3238
(7) An individual who holds a current, valid license issued under Chapter 4741. of the Revised Code to practice veterinary medicine;	3239 3240 3241
(8) An individual who holds a current, valid license issued under Chapter 4779. of the Revised Code to practice orthotics, prosthetics, or pedorthics;	3242 3243 3244
(9) A pharmacy licensed under Chapter 4729. of the Revised Code that either does not sell or rent home medical equipment or	3245 3246

receives total payments of less than ten thousand dollars per 3247
year from selling or renting home medical equipment; 3248

(10) A home dialysis equipment provider regulated by 3249
federal law. 3250

Sec. 5119.34. (A) As used in this section and sections 3251
5119.341 and 5119.342 of the Revised Code: 3252

(1) "Accommodations" means housing, daily meal 3253
preparation, laundry, housekeeping, arranging for 3254
transportation, social and recreational activities, maintenance, 3255
security, and other services that do not constitute personal 3256
care services or skilled nursing care. 3257

(2) "ADAMHS board" means a board of alcohol, drug 3258
addiction, and mental health services. 3259

(3) "Adult" means a person who is eighteen years of age or 3260
older, other than a person described in division (A)(4) of this 3261
section who is between eighteen and twenty-one years of age. 3262

(4) "Child" means a person who is under eighteen years of 3263
age or a person with a mental disability who is under twenty-one 3264
years of age. 3265

(5) "Community mental health services provider" means a 3266
community mental health services provider as defined in section 3267
5119.01 of the Revised Code. 3268

(6) "Community mental health services" means any mental 3269
health services certified by the department pursuant to section 3270
5119.36 of the Revised Code. 3271

(7) "Operator" means the person or persons, firm, 3272
partnership, agency, governing body, association, corporation, 3273
or other entity that is responsible for the administration and 3274

management of a residential facility and that is the applicant 3275
for a residential facility license. 3276

(8) "Personal care services" means services including, but 3277
not limited to, the following: 3278

(a) Assisting residents with activities of daily living; 3279

(b) Assisting residents with self-administration of 3280
medication in accordance with rules adopted under this section; 3281

(c) Preparing special diets, other than complex 3282
therapeutic diets, for residents pursuant to the instructions of 3283
a physician or a licensed dietitian, in accordance with rules 3284
adopted under this section. 3285

"Personal care services" does not include "skilled nursing 3286
care" as defined in section 3721.01 of the Revised Code. A 3287
facility need not provide more than one of the services listed 3288
in division (A) (8) of this section to be considered to be 3289
providing personal care services. 3290

(9) "Room and board" means the provision of sleeping and 3291
living space, meals or meal preparation, laundry services, 3292
housekeeping services, or any combination thereof. 3293

(10) "Residential state supplement" means the program 3294
administered under section 5119.41 of the Revised Code and 3295
related provisions of the Administrative Code under which the 3296
state supplements the supplemental security income payments 3297
received by aged, blind, or disabled adults under Title XVI of 3298
the Social Security Act. Residential state supplement payments 3299
are used for the provision of accommodations, supervision, and 3300
personal care services to supplemental security income 3301
recipients the department of mental health and addition services 3302
determines are at risk of needing institutional care. 3303

- (11) "Supervision" means any of the following: 3304
- (a) Observing a resident to ensure the resident's health, 3305
safety, and welfare while the resident engages in activities of 3306
daily living or other activities; 3307
- (b) Reminding a resident to perform or complete an 3308
activity, such as reminding a resident to engage in personal 3309
hygiene or other self-care activities; 3310
- (c) Assisting a resident in making or keeping an 3311
appointment. 3312
- (12) "Unrelated" means that a resident is not related to 3313
the owner or operator of a residential facility or to the 3314
owner's or operator's spouse as a parent, grandparent, child, 3315
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 3316
uncle, or as the child of an aunt or uncle. 3317
- (B) (1) A "residential facility" is a publicly or privately 3318
operated home or facility that falls into one of the following 3319
categories: 3320
- (a) Class one facilities provide accommodations, 3321
supervision, personal care services, and mental health services 3322
for one or more unrelated adults with mental illness or one or 3323
more unrelated children or adolescents with severe emotional 3324
disturbances; 3325
- (b) Class two facilities provide accommodations, 3326
supervision, and personal care services to any of the following: 3327
- (i) One or two unrelated persons with mental illness; 3328
- (ii) One or two unrelated adults who are receiving 3329
residential state supplement payments; 3330

(iii) Three to sixteen unrelated adults.	3331
(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.	3332 3333
(2) "Residential facility" does not include any of the following:	3334 3335
(a) A hospital subject to licensure under section 5119.33 of the Revised Code or an institution maintained, operated, managed, and governed by the department of mental health and addiction services for the hospitalization of mentally ill persons pursuant to section 5119.14 of the Revised Code;	3336 3337 3338 3339 3340
(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;	3341 3342 3343
(c) An institution or association subject to certification under section 5103.03 of the Revised Code;	3344 3345
(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	3346 3347 3348
(e) <u>A palliative care facility licensed under section 3712.042 of the Revised Code;</u>	3349 3350
<u>(f)</u> A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;	3351 3352
(f) <u>(g)</u> A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code;	3353 3354
(g) <u>(h)</u> Any facility that receives funding for operating costs from the development services agency under any program established to provide emergency shelter housing or transitional	3355 3356 3357

housing for the homeless; 3358

~~(h)~~ (i) A terminal care facility for the homeless that has 3359
entered into an agreement with a hospice care program under 3360
section 3712.07 of the Revised Code; 3361

~~(i)~~ (j) A facility approved by the veterans administration 3362
under section 104(a) of the "Veterans Health Care Amendments of 3363
1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used 3364
exclusively for the placement and care of veterans; 3365

~~(j)~~ (k) The residence of a relative or guardian of a 3366
person with mental illness. 3367

(C) Nothing in division (B) of this section shall be 3368
construed to permit personal care services to be imposed on a 3369
resident who is capable of performing the activity in question 3370
without assistance. 3371

(D) Except in the case of a residential facility described 3372
in division (B) (1) (a) of this section, members of the staff of a 3373
residential facility shall not administer medication to the 3374
facility's residents, but may do any of the following: 3375

(1) Remind a resident when to take medication and watch to 3376
ensure that the resident follows the directions on the 3377
container; 3378

(2) Assist a resident in the self-administration of 3379
medication by taking the medication from the locked area where 3380
it is stored, in accordance with rules adopted pursuant to this 3381
section, and handing it to the resident. If the resident is 3382
physically unable to open the container, a staff member may open 3383
the container for the resident. 3384

(3) Assist a physically impaired but mentally alert 3385

resident, such as a resident with arthritis, cerebral palsy, or 3386
Parkinson's disease, in removing oral or topical medication from 3387
containers and in consuming or applying the medication, upon 3388
request by or with the consent of the resident. If a resident is 3389
physically unable to place a dose of medicine to the resident's 3390
mouth without spilling it, a staff member may place the dose in 3391
a container and place the container to the mouth of the 3392
resident. 3393

(E) (1) Except as provided in division (E) (2) of this 3394
section, a person operating or seeking to operate a residential 3395
facility shall apply for licensure of the facility to the 3396
department of mental health and addiction services. The 3397
application shall be submitted by the operator. When applying 3398
for the license, the applicant shall pay to the department the 3399
application fee specified in rules adopted under division (L) of 3400
this section. The fee is nonrefundable. 3401

The department shall send a copy of an application to the 3402
ADAMHS board serving the county in which the person operates or 3403
seeks to operate the facility. The ADAMHS board shall review the 3404
application and provide to the department any information about 3405
the applicant or the facility that the board would like the 3406
department to consider in reviewing the application. 3407

(2) A person may not apply for a license to operate a 3408
residential facility if the person is or has been the owner, 3409
operator, or manager of a residential facility for which a 3410
license to operate was revoked or for which renewal of a license 3411
was refused for any reason other than nonpayment of the license 3412
renewal fee, unless both of the following conditions are met: 3413

(a) A period of not less than two years has elapsed since 3414
the date the director of mental health and addiction services 3415

issued the order revoking or refusing to renew the facility's 3416
license. 3417

(b) The director's revocation or refusal to renew the 3418
license was not based on an act or omission at the facility that 3419
violated a resident's right to be free from abuse, neglect, or 3420
exploitation. 3421

(F) (1) The department of mental health and addiction 3422
services shall inspect and license the operation of residential 3423
facilities. The department shall consider the past record of the 3424
facility and the applicant or licensee in arriving at its 3425
licensure decision. 3426

The department may issue full, probationary, and interim 3427
licenses. A full license shall expire up to three years after 3428
the date of issuance, a probationary license shall expire in a 3429
shorter period of time as specified in rules adopted by the 3430
director of mental health and addiction services under division 3431
(L) of this section, and an interim license shall expire ninety 3432
days after the date of issuance. A license may be renewed in 3433
accordance with rules adopted by the director under division (L) 3434
of this section. The renewal application shall be submitted by 3435
the operator. When applying for renewal of a license, the 3436
applicant shall pay to the department the renewal fee specified 3437
in rules adopted under division (L) of this section. The fee is 3438
nonrefundable. 3439

(2) The department may issue an order suspending the 3440
admission of residents to the facility or refuse to issue or 3441
renew and may revoke a license if it finds any of the following: 3442

(a) The facility is not in compliance with rules adopted 3443
by the director pursuant to division (L) of this section; 3444

(b) Any facility operated by the applicant or licensee has 3445
been cited for a pattern of serious noncompliance or repeated 3446
violations of statutes or rules during the period of current or 3447
previous licenses; 3448

(c) The applicant or licensee submits false or misleading 3449
information as part of a license application, renewal, or 3450
investigation. 3451

Proceedings initiated to deny applications for full or 3452
probationary licenses or to revoke such licenses are governed by 3453
Chapter 119. of the Revised Code. An order issued pursuant to 3454
this division remains in effect during the pendency of those 3455
proceedings. 3456

(G) The department may issue an interim license to operate 3457
a residential facility if both of the following conditions are 3458
met: 3459

(1) The department determines that the closing of or the 3460
need to remove residents from another residential facility has 3461
created an emergency situation requiring immediate removal of 3462
residents and an insufficient number of licensed beds are 3463
available. 3464

(2) The residential facility applying for an interim 3465
license meets standards established for interim licenses in 3466
rules adopted by the director under division (L) of this 3467
section. 3468

An interim license shall be valid for ninety days and may 3469
be renewed by the director no more than twice. Proceedings 3470
initiated to deny applications for or to revoke interim licenses 3471
under this division are not subject to Chapter 119. of the 3472
Revised Code. 3473

(H) (1) The department of mental health and addiction 3474
services may conduct an inspection of a residential facility as 3475
follows: 3476

(a) Prior to issuance of a license for the facility; 3477

(b) Prior to renewal of the license; 3478

(c) To determine whether the facility has completed a plan 3479
of correction required pursuant to division (H) (2) of this 3480
section and corrected deficiencies to the satisfaction of the 3481
department and in compliance with this section and rules adopted 3482
pursuant to it; 3483

(d) Upon complaint by any individual or agency; 3484

(e) At any time the director considers an inspection to be 3485
necessary in order to determine whether the facility is in 3486
compliance with this section and rules adopted pursuant to this 3487
section. 3488

(2) In conducting inspections the department may conduct 3489
an on-site examination and evaluation of the residential 3490
facility and its personnel, activities, and services. The 3491
department shall have access to examine and copy all records, 3492
accounts, and any other documents relating to the operation of 3493
the residential facility, including records pertaining to 3494
residents, and shall have access to the facility in order to 3495
conduct interviews with the operator, staff, and residents. 3496
Following each inspection and review, the department shall 3497
complete a report listing any deficiencies, and including, when 3498
appropriate, a time table within which the operator shall 3499
correct the deficiencies. The department may require the 3500
operator to submit a plan of correction describing how the 3501
deficiencies will be corrected. 3502

(I) No person shall do any of the following:	3503
(1) Operate a residential facility unless the facility holds a valid license;	3504 3505
(2) Violate any of the conditions of licensure after having been granted a license;	3506 3507
(3) Interfere with a state or local official's inspection or investigation of a residential facility;	3508 3509
(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.	3510 3511
(J) The following may enter a residential facility at any time:	3512 3513
(1) Employees designated by the director of mental health and addiction services;	3514 3515
(2) Employees of an ADAMHS board under either of the following circumstances:	3516 3517
(a) When a resident of the facility is receiving services from a community mental health services provider under contract with that ADAMHS board or another ADAMHS board;	3518 3519 3520
(b) When authorized by section 340.05 of the Revised Code.	3521
(3) Employees of a community mental health services provider under either of the following circumstances:	3522 3523
(a) When the provider has a person receiving services residing in the facility;	3524 3525
(b) When the provider is acting as an agent of an ADAMHS board other than the board with which it is under contract.	3526 3527
(4) Representatives of the state long-term care ombudsman	3528

program when the facility provides accommodations, supervision, 3529
and personal care services for three to sixteen unrelated adults 3530
or to one or two unrelated adults who are recipients under the 3531
residential state supplement program. 3532

The persons specified in division (J) of this section 3533
shall be afforded access to examine and copy all records, 3534
accounts, and any other documents relating to the operation of 3535
the residential facility, including records pertaining to 3536
residents. 3537

(K) Employees of the department of mental health and 3538
addiction services may enter, for the purpose of investigation, 3539
any institution, residence, facility, or other structure which 3540
has been reported to the department as, or that the department 3541
has reasonable cause to believe is, operating as a residential 3542
facility without a valid license. 3543

(L) The director shall adopt and may amend and rescind 3544
rules pursuant to Chapter 119. of the Revised Code governing the 3545
licensing and operation of residential facilities. The rules 3546
shall establish all of the following: 3547

(1) Minimum standards for the health, safety, adequacy, 3548
and cultural competency of treatment of and services for persons 3549
in residential facilities; 3550

(2) Procedures for the issuance, renewal, or revocation of 3551
the licenses of residential facilities; 3552

(3) Procedures for conducting background investigations 3553
for prospective or current operators, employees, volunteers, and 3554
other non-resident occupants who may have direct access to 3555
facility residents; 3556

(4) The fee to be paid when applying for a new residential 3557

facility license or renewing the license;	3558
(5) Procedures for the operator of a residential facility	3559
to follow when notifying the ADAMHS board serving the county in	3560
which the facility is located when the facility is serving	3561
residents with mental illness or severe mental disability,	3562
including the circumstances under which the operator is required	3563
to make such a notification;	3564
(6) Procedures for the issuance and termination of orders	3565
of suspension of admission of residents to a residential	3566
facility;	3567
(7) Measures to be taken by residential facilities	3568
relative to residents' medication;	3569
(8) Requirements relating to preparation of special diets;	3570
(9) The maximum number of residents who may be served in a	3571
residential facility;	3572
(10) The rights of residents of residential facilities and	3573
procedures to protect such rights;	3574
(11) Standards and procedures under which the director may	3575
waive the requirements of any of the rules adopted.	3576
(M) (1) The department may withhold the source of any	3577
complaint reported as a violation of this section when the	3578
department determines that disclosure could be detrimental to	3579
the department's purposes or could jeopardize the investigation.	3580
The department may disclose the source of any complaint if the	3581
complainant agrees in writing to such disclosure and shall	3582
disclose the source upon order by a court of competent	3583
jurisdiction.	3584
(2) Any person who makes a complaint under division (M) (1)	3585

of this section, or any person who participates in an 3586
administrative or judicial proceeding resulting from such a 3587
complaint, is immune from civil liability and is not subject to 3588
criminal prosecution, other than for perjury, unless the person 3589
has acted in bad faith or with malicious purpose. 3590

(N) (1) The director of mental health and addiction 3591
services may petition the court of common pleas of the county in 3592
which a residential facility is located for an order enjoining 3593
any person from operating a residential facility without a 3594
license or from operating a licensed facility when, in the 3595
director's judgment, there is a present danger to the health or 3596
safety of any of the occupants of the facility. The court shall 3597
have jurisdiction to grant such injunctive relief upon a showing 3598
that the respondent named in the petition is operating a 3599
facility without a license or there is a present danger to the 3600
health or safety of any residents of the facility. 3601

(2) When the court grants injunctive relief in the case of 3602
a facility operating without a license, the court shall issue, 3603
at a minimum, an order enjoining the facility from admitting new 3604
residents to the facility and an order requiring the facility to 3605
assist with the safe and orderly relocation of the facility's 3606
residents. 3607

(3) If injunctive relief is granted against a facility for 3608
operating without a license and the facility continues to 3609
operate without a license, the director shall refer the case to 3610
the attorney general for further action. 3611

(O) The director may fine a person for violating division 3612
(I) of this section. The fine shall be five hundred dollars for 3613
a first offense; for each subsequent offense, the fine shall be 3614
one thousand dollars. The director's actions in imposing a fine 3615

shall be taken in accordance with Chapter 119. of the Revised 3616
Code. 3617

Section 2. That existing sections 109.57, 140.01, 1337.11, 3618
2133.01, 2317.54, 3701.881, 3712.01, 3712.09, 3721.01, 3795.01, 3619
3963.01, 4719.01, 4723.36, 4723.481, 4723.487, 4729.43, 3620
4730.202, 4730.411, 4730.53, 4731.055, 4731.228, 4752.02, and 3621
5119.34 of the Revised Code are hereby repealed. 3622

Section 3. Section 4730.53 of the Revised Code is 3623
presented in this act as a composite of the section as amended 3624
by S.B. 110 of the 131st General Assembly and H.B. 394 and S.B. 3625
276 both of the 130th General Assembly. The General Assembly, 3626
applying the principle stated in division (B) of section 1.52 of 3627
the Revised Code that amendments are to be harmonized if 3628
reasonably capable of simultaneous operation, finds that the 3629
composite is the resulting version of the section in effect 3630
prior to the effective date of the section as presented in this 3631
act. 3632