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**2015-2016**

**Sub. H. B. No. 470**

**Representative Schuring**

**Cosponsors: Representatives Bishoff, Brown, Johnson, T., Anielski, Antonio, Arndt, Baker, Barnes, Boyd, Craig, Curtin, Derickson, Dovilla, Grossman, Hambley, Lepore-Hagan, McClain, O'Brien, M., Patterson, Ramos, Rezabek, Rogers, Scherer, Sears, Slesnick, Sweeney, Young**

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**A BILL**

To amend sections 109.57, 140.01, 140.08, 1337.11, 1  
2133.01, 2317.54, 3701.881, 3712.01, 3712.09, 2  
3721.01, 3795.01, 3963.01, 4719.01, 4723.36, 3  
4723.481, 4723.487, 4729.43, 4730.202, 4730.411, 4  
4730.53, 4731.055, 4731.228, 4752.02, and 5  
5119.34 and to enact sections 3712.032, 6  
3712.042, 3712.052, and 3712.063 of the Revised 7  
Code regarding licensure of palliative care 8  
facilities. 9

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

**Section 1.** That sections 109.57, 140.01, 140.08, 1337.11, 10  
2133.01, 2317.54, 3701.881, 3712.01, 3712.09, 3721.01, 3795.01, 11  
3963.01, 4719.01, 4723.36, 4723.481, 4723.487, 4729.43, 12  
4730.202, 4730.411, 4730.53, 4731.055, 4731.228, 4752.02, and 13  
5119.34 be amended and sections 3712.032, 3712.042, 3712.052, 14  
and 3712.063 of the Revised Code be enacted to read as follows: 15

**Sec. 109.57.** (A) (1) The superintendent of the bureau of 16

criminal identification and investigation shall procure from 17  
wherever procurable and file for record photographs, pictures, 18  
descriptions, fingerprints, measurements, and other information 19  
that may be pertinent of all persons who have been convicted of 20  
committing within this state a felony, any crime constituting a 21  
misdemeanor on the first offense and a felony on subsequent 22  
offenses, or any misdemeanor described in division (A) (1) (a), 23  
(A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code, 24  
of all children under eighteen years of age who have been 25  
adjudicated delinquent children for committing within this state 26  
an act that would be a felony or an offense of violence if 27  
committed by an adult or who have been convicted of or pleaded 28  
guilty to committing within this state a felony or an offense of 29  
violence, and of all well-known and habitual criminals. The 30  
person in charge of any county, multicounty, municipal, 31  
municipal-county, or multicounty-municipal jail or workhouse, 32  
community-based correctional facility, halfway house, 33  
alternative residential facility, or state correctional 34  
institution and the person in charge of any state institution 35  
having custody of a person suspected of having committed a 36  
felony, any crime constituting a misdemeanor on the first 37  
offense and a felony on subsequent offenses, or any misdemeanor 38  
described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of 39  
section 109.572 of the Revised Code or having custody of a child 40  
under eighteen years of age with respect to whom there is 41  
probable cause to believe that the child may have committed an 42  
act that would be a felony or an offense of violence if 43  
committed by an adult shall furnish such material to the 44  
superintendent of the bureau. Fingerprints, photographs, or 45  
other descriptive information of a child who is under eighteen 46  
years of age, has not been arrested or otherwise taken into 47  
custody for committing an act that would be a felony or an 48

offense of violence who is not in any other category of child 49  
specified in this division, if committed by an adult, has not 50  
been adjudicated a delinquent child for committing an act that 51  
would be a felony or an offense of violence if committed by an 52  
adult, has not been convicted of or pleaded guilty to committing 53  
a felony or an offense of violence, and is not a child with 54  
respect to whom there is probable cause to believe that the 55  
child may have committed an act that would be a felony or an 56  
offense of violence if committed by an adult shall not be 57  
procured by the superintendent or furnished by any person in 58  
charge of any county, multicounty, municipal, municipal-county, 59  
or multicounty-municipal jail or workhouse, community-based 60  
correctional facility, halfway house, alternative residential 61  
facility, or state correctional institution, except as 62  
authorized in section 2151.313 of the Revised Code. 63

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

furnished by the superintendent pursuant to division (B) of this section and shall include the following information: 80  
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(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section; 82  
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(b) The style and number of the case; 85

(c) The date of arrest, offense, summons, or arraignment; 86

(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case; 87  
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(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated; 99  
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(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child. 101  
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If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact 105  
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is placed in the bureau's records. 109

(3) The superintendent shall cooperate with and assist 110  
sheriffs, chiefs of police, and other law enforcement officers 111  
in the establishment of a complete system of criminal 112  
identification and in obtaining fingerprints and other means of 113  
identification of all persons arrested on a charge of a felony, 114  
any crime constituting a misdemeanor on the first offense and a 115  
felony on subsequent offenses, or a misdemeanor described in 116  
division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 117  
of the Revised Code and of all children under eighteen years of 118  
age arrested or otherwise taken into custody for committing an 119  
act that would be a felony or an offense of violence if 120  
committed by an adult. The superintendent also shall file for 121  
record the fingerprint impressions of all persons confined in a 122  
county, multicounty, municipal, municipal-county, or 123  
multicounty-municipal jail or workhouse, community-based 124  
correctional facility, halfway house, alternative residential 125  
facility, or state correctional institution for the violation of 126  
state laws and of all children under eighteen years of age who 127  
are confined in a county, multicounty, municipal, municipal- 128  
county, or multicounty-municipal jail or workhouse, community- 129  
based correctional facility, halfway house, alternative 130  
residential facility, or state correctional institution or in 131  
any facility for delinquent children for committing an act that 132  
would be a felony or an offense of violence if committed by an 133  
adult, and any other information that the superintendent may 134  
receive from law enforcement officials of the state and its 135  
political subdivisions. 136

(4) The superintendent shall carry out Chapter 2950. of 137  
the Revised Code with respect to the registration of persons who 138  
are convicted of or plead guilty to a sexually oriented offense 139

or a child-victim oriented offense and with respect to all other 140  
duties imposed on the bureau under that chapter. 141

(5) The bureau shall perform centralized recordkeeping 142  
functions for criminal history records and services in this 143  
state for purposes of the national crime prevention and privacy 144  
compact set forth in section 109.571 of the Revised Code and is 145  
the criminal history record repository as defined in that 146  
section for purposes of that compact. The superintendent or the 147  
superintendent's designee is the compact officer for purposes of 148  
that compact and shall carry out the responsibilities of the 149  
compact officer specified in that compact. 150

(B) The superintendent shall prepare and furnish to every 151  
county, multicounty, municipal, municipal-county, or 152  
multicounty-municipal jail or workhouse, community-based 153  
correctional facility, halfway house, alternative residential 154  
facility, or state correctional institution and to every clerk 155  
of a court in this state specified in division (A)(2) of this 156  
section standard forms for reporting the information required 157  
under division (A) of this section. The standard forms that the 158  
superintendent prepares pursuant to this division may be in a 159  
tangible format, in an electronic format, or in both tangible 160  
formats and electronic formats. 161

(C)(1) The superintendent may operate a center for 162  
electronic, automated, or other data processing for the storage 163  
and retrieval of information, data, and statistics pertaining to 164  
criminals and to children under eighteen years of age who are 165  
adjudicated delinquent children for committing an act that would 166  
be a felony or an offense of violence if committed by an adult, 167  
criminal activity, crime prevention, law enforcement, and 168  
criminal justice, and may establish and operate a statewide 169

communications network to be known as the Ohio law enforcement 170  
gateway to gather and disseminate information, data, and 171  
statistics for the use of law enforcement agencies and for other 172  
uses specified in this division. The superintendent may gather, 173  
store, retrieve, and disseminate information, data, and 174  
statistics that pertain to children who are under eighteen years 175  
of age and that are gathered pursuant to sections 109.57 to 176  
109.61 of the Revised Code together with information, data, and 177  
statistics that pertain to adults and that are gathered pursuant 178  
to those sections. 179

(2) The superintendent or the superintendent's designee 180  
shall gather information of the nature described in division (C) 181  
(1) of this section that pertains to the offense and delinquency 182  
history of a person who has been convicted of, pleaded guilty 183  
to, or been adjudicated a delinquent child for committing a 184  
sexually oriented offense or a child-victim oriented offense for 185  
inclusion in the state registry of sex offenders and child- 186  
victim offenders maintained pursuant to division (A)(1) of 187  
section 2950.13 of the Revised Code and in the internet database 188  
operated pursuant to division (A)(13) of that section and for 189  
possible inclusion in the internet database operated pursuant to 190  
division (A)(11) of that section. 191

(3) In addition to any other authorized use of 192  
information, data, and statistics of the nature described in 193  
division (C)(1) of this section, the superintendent or the 194  
superintendent's designee may provide and exchange the 195  
information, data, and statistics pursuant to the national crime 196  
prevention and privacy compact as described in division (A)(5) 197  
of this section. 198

(4) The attorney general may adopt rules under Chapter 199

119. of the Revised Code establishing guidelines for the 200  
operation of and participation in the Ohio law enforcement 201  
gateway. The rules may include criteria for granting and 202  
restricting access to information gathered and disseminated 203  
through the Ohio law enforcement gateway. The attorney general 204  
shall permit the state medical board and board of nursing to 205  
access and view, but not alter, information gathered and 206  
disseminated through the Ohio law enforcement gateway. 207

The attorney general may appoint a steering committee to 208  
advise the attorney general in the operation of the Ohio law 209  
enforcement gateway that is comprised of persons who are 210  
representatives of the criminal justice agencies in this state 211  
that use the Ohio law enforcement gateway and is chaired by the 212  
superintendent or the superintendent's designee. 213

(D) (1) The following are not public records under section 214  
149.43 of the Revised Code: 215

(a) Information and materials furnished to the 216  
superintendent pursuant to division (A) of this section; 217

(b) Information, data, and statistics gathered or 218  
disseminated through the Ohio law enforcement gateway pursuant 219  
to division (C) (1) of this section; 220

(c) Information and materials furnished to any board or 221  
person under division (F) or (G) of this section. 222

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

the purposes described in division (C) (2) of this section. 229

(E) (1) The attorney general shall adopt rules, in 230  
accordance with Chapter 119. of the Revised Code and subject to 231  
division (E) (2) of this section, setting forth the procedure by 232  
which a person may receive or release information gathered by 233  
the superintendent pursuant to division (A) of this section. A 234  
reasonable fee may be charged for this service. If a temporary 235  
employment service submits a request for a determination of 236  
whether a person the service plans to refer to an employment 237  
position has been convicted of or pleaded guilty to an offense 238  
listed or described in division (A) (1), (2), or (3) of section 239  
109.572 of the Revised Code, the request shall be treated as a 240  
single request and only one fee shall be charged. 241

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

conviction:	260
(a) The adjudication or conviction was for a violation of section 2903.01 or 2903.02 of the Revised Code.	261 262
(b) The adjudication or conviction was for a sexually oriented offense, the juvenile court was required to classify the child a juvenile offender registrant for that offense under section 2152.82, 2152.83, or 2152.86 of the Revised Code, that classification has not been removed, and the records of the adjudication or conviction have not been sealed or expunged pursuant to sections 2151.355 to 2151.358 or sealed pursuant to section 2952.32 of the Revised Code.	263 264 265 266 267 268 269 270
(3) A rule adopted under division (E) (1) of this section may provide for the release of information gathered pursuant to division (A) of this section that relates to the arrest of a person who is eighteen years of age or older when the person has not been convicted as a result of that arrest if any of the following applies:	271 272 273 274 275 276
(a) The arrest was made outside of this state.	277
(b) A criminal action resulting from the arrest is pending, and the superintendent confirms that the criminal action has not been resolved at the time the criminal records check is performed.	278 279 280 281
(c) The bureau cannot reasonably determine whether a criminal action resulting from the arrest is pending, and not more than one year has elapsed since the date of the arrest.	282 283 284
(4) A rule adopted under division (E) (1) of this section may provide for the release of information gathered pursuant to division (A) of this section that relates to an adjudication of a child as a delinquent child if not more than five years have	285 286 287 288

elapsed since the date of the adjudication, the adjudication was 289  
for an act that would have been a felony if committed by an 290  
adult, the records of the adjudication have not been sealed or 291  
expunged pursuant to sections 2151.355 to 2151.358 of the 292  
Revised Code, and the request for information is made under 293  
division (F) of this section or under section 109.572 of the 294  
Revised Code. In the case of an adjudication for a violation of 295  
the terms of community control or supervised release, the five- 296  
year period shall be calculated from the date of the 297  
adjudication to which the community control or supervised 298  
release pertains. 299

(F) (1) As used in division (F) (2) of this section, "head 300  
start agency" means an entity in this state that has been 301  
approved to be an agency for purposes of subchapter II of the 302  
"Community Economic Development Act," 95 Stat. 489 (1981), 42 303  
U.S.C.A. 9831, as amended. 304

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

day-care home licensed under Chapter 5104. of the Revised Code; 320  
the chief administrator of any head start agency; the executive 321  
director of a public children services agency; a private company 322  
described in section 3314.41, 3319.392, 3326.25, or 3328.20 of 323  
the Revised Code; or an employer described in division (J) (2) of 324  
section 3327.10 of the Revised Code may request that the 325  
superintendent of the bureau investigate and determine, with 326  
respect to any individual who has applied for employment in any 327  
position after October 2, 1989, or any individual wishing to 328  
apply for employment with a board of education may request, with 329  
regard to the individual, whether the bureau has any information 330  
gathered under division (A) of this section that pertains to 331  
that individual. On receipt of the request, subject to division 332  
(E) (2) of this section, the superintendent shall determine 333  
whether that information exists and, upon request of the person, 334  
board, or entity requesting information, also shall request from 335  
the federal bureau of investigation any criminal records it has 336  
pertaining to that individual. The superintendent or the 337  
superintendent's designee also may request criminal history 338  
records from other states or the federal government pursuant to 339  
the national crime prevention and privacy compact set forth in 340  
section 109.571 of the Revised Code. Within thirty days of the 341  
date that the superintendent receives a request, subject to 342  
division (E) (2) of this section, the superintendent shall send 343  
to the board, entity, or person a report of any information that 344  
the superintendent determines exists, including information 345  
contained in records that have been sealed under section 2953.32 346  
of the Revised Code, and, within thirty days of its receipt, 347  
subject to division (E) (2) of this section, shall send the 348  
board, entity, or person a report of any information received 349  
from the federal bureau of investigation, other than information 350  
the dissemination of which is prohibited by federal law. 351

(b) When a board of education or a registered private provider is required to receive information under this section as a prerequisite to employment of an individual pursuant to 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 382  
request for information under section 3319.291 of the Revised 383  
Code, the superintendent shall proceed as if the request has 384  
been received from a school district board of education and 385  
shall comply with divisions (F) (2) (a) and (c) of this section. 386

(5) When a recipient of a classroom reading improvement 387  
grant paid under section 3301.86 of the Revised Code requests, 388  
with respect to any individual who applies to participate in 389  
providing any program or service funded in whole or in part by 390  
the grant, the information that a school district board of 391  
education is authorized to request under division (F) (2) (a) of 392  
this section, the superintendent of the bureau shall proceed as 393  
if the request has been received from a school district board of 394  
education under division (F) (2) (a) of this section. 395

(G) In addition to or in conjunction with any request that 396  
is required to be made under section 3701.881, 3712.09, or 397  
3721.121 of the Revised Code with respect to an individual who 398  
has applied for employment in a position that involves providing 399  
direct care to an older adult or adult resident, the chief 400  
administrator of a home health agency, hospice care program, 401  
home licensed under Chapter 3721. of the Revised Code, or adult 402  
day-care program operated pursuant to rules adopted under 403  
section 3721.04 of the Revised Code may request that the 404  
superintendent of the bureau investigate and determine, with 405  
respect to any individual who has applied after January 27, 406  
1997, for employment in a position that does not involve 407  
providing direct care to an older adult or adult resident, 408  
whether the bureau has any information gathered under division 409  
(A) of this section that pertains to that individual. 410

In addition to or in conjunction with any request that is 411

required to be made under section 173.27 of the Revised Code 412  
with respect to an individual who has applied for employment in 413  
a position that involves providing ombudsman services to 414  
residents of long-term care facilities or recipients of 415  
community-based long-term care services, the state long-term 416  
care ombudsman, the director of aging, a regional long-term care 417  
ombudsman program, or the designee of the ombudsman, director, 418  
or program may request that the superintendent investigate and 419  
determine, with respect to any individual who has applied for 420  
employment in a position that does not involve providing such 421  
ombudsman services, whether the bureau has any information 422  
gathered under division (A) of this section that pertains to 423  
that applicant. 424

In addition to or in conjunction with any request that is 425  
required to be made under section 173.38 of the Revised Code 426  
with respect to an individual who has applied for employment in 427  
a direct-care position, the chief administrator of a provider, 428  
as defined in section 173.39 of the Revised Code, may request 429  
that the superintendent investigate and determine, with respect 430  
to any individual who has applied for employment in a position 431  
that is not a direct-care position, whether the bureau has any 432  
information gathered under division (A) of this section that 433  
pertains to that applicant. 434

In addition to or in conjunction with any request that is 435  
required to be made under section 3712.09 of the Revised Code 436  
with respect to an individual who has applied for employment in 437  
a position that involves providing direct care to a pediatric 438  
respite care patient or palliative care patient, the chief 439  
administrator of a pediatric respite care program or palliative 440  
care facility may request that the superintendent of the bureau 441  
investigate and determine, with respect to any individual who 442

has applied for employment in a position that does not involve 443  
providing direct care to a pediatric respite care patient or 444  
palliative care patient, whether the bureau has any information 445  
gathered under division (A) of this section that pertains to 446  
that individual. 447

On receipt of a request under this division, the 448  
superintendent shall determine whether that information exists 449  
and, on request of the individual requesting information, shall 450  
also request from the federal bureau of investigation any 451  
criminal records it has pertaining to the applicant. The 452  
superintendent or the superintendent's designee also may request 453  
criminal history records from other states or the federal 454  
government pursuant to the national crime prevention and privacy 455  
compact set forth in section 109.571 of the Revised Code. Within 456  
thirty days of the date a request is received, subject to 457  
division (E)(2) of this section, the superintendent shall send 458  
to the requester a report of any information determined to 459  
exist, including information contained in records that have been 460  
sealed under section 2953.32 of the Revised Code, and, within 461  
thirty days of its receipt, shall send the requester a report of 462  
any information received from the federal bureau of 463  
investigation, other than information the dissemination of which 464  
is prohibited by federal law. 465

(H) Information obtained by a government entity or person 466  
under this section is confidential and shall not be released or 467  
disseminated. 468

(I) The superintendent may charge a reasonable fee for 469  
providing information or criminal records under division (F)(2) 470  
or (G) of this section. 471

(J) As used in this section: 472

(1) "~~Pediatric Palliative care facility,~~" "palliative care  
patient," "pediatric respite care patient," and "pediatric  
respite care program" and "~~pediatric care patient~~" have the same  
meanings as in section 3712.01 of the Revised Code.

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

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

**Sec. 140.01.** As used in this chapter:

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

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

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

or more other hospital agencies. 502

(D) "Governing body" means, in the case of a county, the 503  
board of county commissioners or other legislative body; in the 504  
case of a board of county hospital trustees, the board; in the 505  
case of a county hospital commission, the commission; in the 506  
case of a municipal corporation, the council or other 507  
legislative authority; in the case of a new community authority, 508  
its board of trustees; in the case of a joint township hospital 509  
district, the joint township district hospital board; in the 510  
case of a state or municipal university or college, its board of 511  
trustees or board of directors; in the case of a nonprofit 512  
hospital agency, the board of trustees or other body having 513  
general management of the agency; and, in the case of the state, 514  
the director of development services or the Ohio higher 515  
educational facility commission. 516

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

any one, part of, or any combination of the foregoing; and 533  
further includes site improvements, utilities, machinery, 534  
facilities, furnishings, and any separate or connected 535  
buildings, structures, improvements, sites, utilities, 536  
facilities, or equipment to be used in, or in connection with 537  
the operation or maintenance of, or supplementing or otherwise 538  
related to the services or facilities to be provided by, any one 539  
or more of such hospital facilities. 540

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

expenses necessary or incident to planning or determining 564  
feasibility or practicability with respect to such facilities, 565  
and such other expenses as may be necessary or incident to the 566  
acquisition, construction, reconstruction, rehabilitation, 567  
remodeling, renovation, enlargement, improvement, equipment, and 568  
furnishing of such facilities, the financing thereof, and the 569  
placing of the same in use and operation, including any one, 570  
part of, or combination of such classes of costs and expenses, 571  
and means the costs of refinancing obligations issued by, or 572  
reimbursement of money advanced by, nonprofit hospital agencies 573  
or others the proceeds of which were used for the payment of 574  
costs of hospital facilities, if the governing body of the 575  
public hospital agency determines that the refinancing or 576  
reimbursement advances the purposes of this chapter, whether or 577  
not the refinancing or reimbursement is in conjunction with the 578  
acquisition or construction of additional hospital facilities. 579

(G) "Hospital receipts" means all moneys received by or on 580  
behalf of a hospital agency from or in connection with the 581  
ownership, operation, acquisition, construction, improvement, 582  
equipping, or financing of any hospital facilities, including, 583  
without limitation thereto, any rentals and other moneys 584  
received from the lease, sale, or other disposition of hospital 585  
facilities, and any gifts, grants, interest subsidies, or other 586  
moneys received under any federal program for assistance in 587  
financing the costs of hospital facilities, and any other gifts, 588  
grants, and donations, and receipts therefrom, available for 589  
financing the costs of hospital facilities. 590

(H) "Obligations" means bonds, notes, or other evidences 591  
of indebtedness or obligation, including interest coupons 592  
pertaining thereto, issued or issuable by a public hospital 593  
agency to pay costs of hospital facilities. 594

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.

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

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

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

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

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

(2) A nursing home or residential care facility;

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

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

(5) A residential facility licensed by the department of mental health and addiction services under section 5119.34 of

the Revised Code that provides accommodations, supervision, and 623  
personal care services for three to sixteen unrelated adults; 624

~~(5)~~(6) A residential facility licensed by the department 625  
of mental health and addiction services under section 5119.34 of 626  
the Revised Code that is not a residential facility described in 627  
division (M) (4) of this section; 628

~~(6)~~(7) A facility licensed to provide methadone treatment 629  
under section 5119.391 of the Revised Code; 630

~~(7)~~(8) A community addiction services provider, as 631  
defined in section 5119.01 of the Revised Code; 632

~~(8)~~(9) A residential facility licensed under section 633  
5123.19 of the Revised Code or a facility providing services 634  
under a contract with the department of developmental 635  
disabilities under section 5123.18 of the Revised Code; 636

~~(9)~~(10) A residential facility used as part of a hospital 637  
to provide housing for staff of the hospital or students 638  
pursuing a course of study at the hospital. 639

**Sec. 140.08.** (A) Except as otherwise provided in divisions 640  
(B) (1) and (2) of this section, all hospital facilities 641  
purchased, acquired, constructed, or owned by a public hospital 642  
agency, or financed in whole or in part by obligations issued by 643  
a public hospital agency, and used, or to be used when 644  
completed, as hospital facilities, and the income therefrom, are 645  
exempt from all taxation within this state, including ad valorem 646  
and excise taxes, notwithstanding any other provisions of law, 647  
and hospital agencies are exempt from taxes levied under 648  
Chapters 5739. and 5741. of the Revised Code. The obligations 649  
issued hereafter under section 133.08, 140.06, or 339.15 of the 650  
Revised Code or Section 3 of Article XVIII, Ohio Constitution, 651

to pay costs of hospital facilities or to refund such 652  
obligations, and the transfer thereof, and the interest and 653  
other income from such obligations, including any profit made on 654  
the sale thereof, is free from taxation within the state. 655

(B) (1) Division (A) of this section does not exempt 656  
independent living facilities from taxes levied on property or 657  
taxes levied under Chapters 5739. and 5741. of the Revised Code. 658  
If an independent living facility or part of such facility 659  
becomes on or after January 10, 1991, a nursing home, 660  
residential care facility, or residential facility described in 661  
division (M) ~~(4)~~ (5) of section 140.01 of the Revised Code, that 662  
part of the independent living facility that is a nursing home, 663  
residential care facility, or residential facility described in 664  
division (M) ~~(4)~~ (5) of section 140.01 of the Revised Code is 665  
exempt from taxation subject to division (B) (2) of this section 666  
on and after the date it becomes a nursing home, residential 667  
care facility, or residential facility described in division (M) 668  
~~(4)~~ (5) of section 140.01 of the Revised Code. 669

(2) Division (A) of this section exempts nursing homes, 670  
residential care facilities, and residential facilities 671  
described in division (M) ~~(4)~~ (5) of section 140.01 of the 672  
Revised Code from taxes levied on property and taxes levied 673  
under Chapters 5739. and 5741. of the Revised Code only until 674  
all obligations issued to finance such homes or facilities, or 675  
all refunding or series of refundings of those obligations, are 676  
redeemed or otherwise retired. 677

**Sec. 1337.11.** As used in sections 1337.11 to 1337.17 of 678  
the Revised Code: 679

(A) "Adult" means a person who is eighteen years of age or 680  
older. 681

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

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

(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;

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

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

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

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

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

(G) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's

physical or mental condition or physical or mental health. 710

(H) "Health care decision" means informed consent, refusal 711  
to give informed consent, or withdrawal of informed consent to 712  
health care. 713

(I) "Health care facility" means any of the following: 714

(1) A hospital; 715

(2) A hospice care program, pediatric respite care 716  
program, or other institution that specializes in comfort care 717  
of patients in a terminal condition or in a permanently 718  
unconscious state; 719

(3) A palliative care facility; 720

(4) A nursing home; 721

~~(4)~~ (5) A home health agency; 722

~~(5)~~ (6) An intermediate care facility for individuals with 723  
intellectual disabilities; 724

~~(6)~~ (7) A regulated community mental health organization. 725

(J) "Health care personnel" means physicians, nurses, 726  
physician assistants, emergency medical technicians-basic, 727  
emergency medical technicians-intermediate, emergency medical 728  
technicians-paramedic, medical technicians, dietitians, other 729  
authorized persons acting under the direction of an attending 730  
physician, and administrators of health care facilities. 731

(K) "Home health agency" has the same meaning as in 732  
section 3701.881 of the Revised Code. 733

(L) "Hospice care program," ~~and~~ "pediatric respite care 734  
program," and "palliative care facility" have the same meanings 735  
as in section 3712.01 of the Revised Code. 736

(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	737 738
(N) "Hydration" means fluids that are artificially or technologically administered.	739 740
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	741 742
(P) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.	743 744 745
(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.	746 747 748 749
(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.	750 751
(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.	752 753
(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	754 755
(U) "Nutrition" means sustenance that is artificially or technologically administered.	756 757
(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:	758 759 760 761 762 763

(1) Irreversible unawareness of one's being and environment.	764 765
(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.	766 767 768
(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, departments, institutions, offices, and other instrumentalities.	769 770 771 772
(X) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	773 774 775
(Y) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	776 777
(Z) "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 board and the board of nursing.	778 779 780 781
(AA) "Regulated community mental health organization" means a residential facility as defined and licensed under section 5119.34 of the Revised Code or a community mental health services provider as defined in section 5122.01 of the Revised Code.	782 783 784 785 786
(BB) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a principal's attending physician and one other physician who has examined the principal, both of the following	787 788 789 790 791 792

apply:	793
(1) There can be no recovery.	794
(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.	795 796
(CC) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.	797 798 799 800
<b>Sec. 2133.01.</b> Unless the context otherwise requires, as used in sections 2133.01 to 2133.15 of the Revised Code:	801 802
(A) "Adult" means an individual who is eighteen years of age or older.	803 804
(B) "Attending physician" means the physician to whom a declarant or other patient, or the family of a declarant or other patient, has assigned primary responsibility for the treatment or care of the declarant or other patient, or, if the responsibility has not been assigned, the physician who has accepted that responsibility.	805 806 807 808 809 810
(C) "Comfort care" means any of the following:	811
(1) Nutrition when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;	812 813 814
(2) Hydration when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;	815 816 817
(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the	818 819

pain or discomfort of a declarant or other patient, but not to 820  
postpone the declarant's or other patient's death. 821

(D) "Consulting physician" means a physician who, in 822  
conjunction with the attending physician of a declarant or other 823  
patient, makes one or more determinations that are required to 824  
be made by the attending physician, or to be made by the 825  
attending physician and one other physician, by an applicable 826  
provision of this chapter, to a reasonable degree of medical 827  
certainty and in accordance with reasonable medical standards. 828

(E) "Declarant" means any adult who has executed a 829  
declaration in accordance with section 2133.02 of the Revised 830  
Code. 831

(F) "Declaration" means a written document executed in 832  
accordance with section 2133.02 of the Revised Code. 833

(G) "Durable power of attorney for health care" means a 834  
document created pursuant to sections 1337.11 to 1337.17 of the 835  
Revised Code. 836

(H) "Guardian" means a person appointed by a probate court 837  
pursuant to Chapter 2111. of the Revised Code to have the care 838  
and management of the person of an incompetent. 839

(I) "Health care facility" means any of the following: 840

(1) A hospital; 841

(2) A hospice care program, pediatric respite care 842  
program, or other institution that specializes in comfort care 843  
of patients in a terminal condition or in a permanently 844  
unconscious state; 845

(3) A palliative care facility; 846

<u>(4)</u> A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	847 848
<del>(4)</del> <u>(5)</u> A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;	849 850 851
<del>(5)</del> <u>(6)</u> An intermediate care facility for individuals with intellectual disabilities.	852 853
(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.	854 855 856 857 858 859
(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.	860 861
(L) "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.	862 863 864
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	865 866
(N) "Hydration" means fluids that are artificially or technologically administered.	867 868
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	869 870
(P) "Intermediate care facility for the individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.	871 872 873

(Q) "Life-sustaining treatment" means any medical 874  
procedure, treatment, intervention, or other measure that, when 875  
administered to a qualified patient or other patient, will serve 876  
principally to prolong the process of dying. 877

(R) "Nurse" means a person who is licensed to practice 878  
nursing as a registered nurse or to practice practical nursing 879  
as a licensed practical nurse pursuant to Chapter 4723. of the 880  
Revised Code. 881

(S) "Nursing home" has the same meaning as in section 882  
3721.01 of the Revised Code. 883

(T) "Nutrition" means sustenance that is artificially or 884  
technologically administered. 885

(U) "Permanently unconscious state" means a state of 886  
permanent unconsciousness in a declarant or other patient that, 887  
to a reasonable degree of medical certainty as determined in 888  
accordance with reasonable medical standards by the declarant's 889  
or other patient's attending physician and one other physician 890  
who has examined the declarant or other patient, is 891  
characterized by both of the following: 892

(1) Irreversible unawareness of one's being and 893  
environment. 894

(2) Total loss of cerebral cortical functioning, resulting 895  
in the declarant or other patient having no capacity to 896  
experience pain or suffering. 897

(V) "Person" has the same meaning as in section 1.59 of 898  
the Revised Code and additionally includes political 899  
subdivisions and governmental agencies, boards, commissions, 900  
departments, institutions, offices, and other instrumentalities. 901

(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.

(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(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 board and the board of nursing.

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

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

(1) There can be no recovery.

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

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

**Sec. 2317.54.** No hospital, home health agency, ambulatory surgical facility, palliative care facility, or provider of a

hospice care program or pediatric respite care program shall be 930  
held liable for a physician's failure to obtain an informed 931  
consent from the physician's patient prior to a surgical or 932  
medical procedure or course of procedures, unless the physician 933  
is an employee of the hospital, home health agency, ambulatory 934  
surgical facility, palliative care facility, or provider of a 935  
hospice care program or pediatric respite care program. 936

Written consent to a surgical or medical procedure or 937  
course of procedures shall, to the extent that it fulfills all 938  
the requirements in divisions (A), (B), and (C) of this section, 939  
be presumed to be valid and effective, in the absence of proof 940  
by a preponderance of the evidence that the person who sought 941  
such consent was not acting in good faith, or that the execution 942  
of the consent was induced by fraudulent misrepresentation of 943  
material facts, or that the person executing the consent was not 944  
able to communicate effectively in spoken and written English or 945  
any other language in which the consent is written. Except as 946  
herein provided, no evidence shall be admissible to impeach, 947  
modify, or limit the authorization for performance of the 948  
procedure or procedures set forth in such written consent. 949

(A) The consent sets forth in general terms the nature and 950  
purpose of the procedure or procedures, and what the procedures 951  
are expected to accomplish, together with the reasonably known 952  
risks, and, except in emergency situations, sets forth the names 953  
of the physicians who shall perform the intended surgical 954  
procedures. 955

(B) The person making the consent acknowledges that such 956  
disclosure of information has been made and that all questions 957  
asked about the procedure or procedures have been answered in a 958  
satisfactory manner. 959

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

(1) The parent, whether the parent is an adult or a minor, of the parent's minor child;

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

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

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

<b>Sec. 3701.881.</b> (A) As used in this section:	989
(1) "Applicant" means a person who is under final	990
consideration for employment with a home health agency in a	991
full-time, part-time, or temporary position that involves	992
providing direct care to an individual or is referred to a home	993
health agency by an employment service for such a position.	994
(2) "Community-based long-term care provider" means a	995
provider as defined in section 173.39 of the Revised Code.	996
(3) "Community-based long-term care subcontractor" means a	997
subcontractor as defined in section 173.38 of the Revised Code.	998
(4) "Criminal records check" has the same meaning as in	999
section 109.572 of the Revised Code.	1000
(5) "Direct care" means any of the following:	1001
(a) Any service identified in divisions (A)(8)(a) to (f)	1002
of this section that is provided in a patient's place of	1003
residence used as the patient's home;	1004
(b) Any activity that requires the person performing the	1005
activity to be routinely alone with a patient or to routinely	1006
have access to a patient's personal property or financial	1007
documents regarding a patient;	1008
(c) For each home health agency individually, any other	1009
routine service or activity that the chief administrator of the	1010
home health agency designates as direct care.	1011
(6) "Disqualifying offense" means any of the offenses	1012
listed or described in divisions (A)(3)(a) to (e) of section	1013
109.572 of the Revised Code.	1014
(7) "Employee" means a person employed by a home health	1015

agency in a full-time, part-time, or temporary position that 1016  
involves providing direct care to an individual and a person who 1017  
works in such a position due to being referred to a home health 1018  
agency by an employment service. 1019

(8) "Home health agency" means a person or government 1020  
entity, other than a nursing home, residential care facility, 1021  
palliative care facility, hospice care program, or pediatric 1022  
respite care program, that has the primary function of providing 1023  
any of the following services to a patient at a place of 1024  
residence used as the patient's home: 1025

(a) Skilled nursing care; 1026

(b) Physical therapy; 1027

(c) Speech-language pathology; 1028

(d) Occupational therapy; 1029

(e) Medical social services; 1030

(f) Home health aide services. 1031

(9) "Home health aide services" means any of the following 1032  
services provided by an employee of a home health agency: 1033

(a) Hands-on bathing or assistance with a tub bath or 1034  
shower; 1035

(b) Assistance with dressing, ambulation, and toileting; 1036

(c) Catheter care but not insertion; 1037

(d) Meal preparation and feeding. 1038

(10) "Hospice care program," "palliative care facility," 1039  
and "pediatric respite care program" have the same meanings as 1040  
in section 3712.01 of the Revised Code. 1041

(11) "Medical social services" means services provided by 1042  
a social worker under the direction of a patient's attending 1043  
physician. 1044

(12) "Minor drug possession offense" has the same meaning 1045  
as in section 2925.01 of the Revised Code. 1046

(13) "Nursing home," "residential care facility," and 1047  
"skilled nursing care" have the same meanings as in section 1048  
3721.01 of the Revised Code. 1049

(14) "Occupational therapy" has the same meaning as in 1050  
section 4755.04 of the Revised Code. 1051

(15) "Physical therapy" has the same meaning as in section 1052  
4755.40 of the Revised Code. 1053

(16) "Social worker" means a person licensed under Chapter 1054  
4757. of the Revised Code to practice as a social worker or 1055  
independent social worker. 1056

(17) "Speech-language pathology" has the same meaning as 1057  
in section 4753.01 of the Revised Code. 1058

(18) "Waiver agency" has the same meaning as in section 1059  
5164.342 of the Revised Code. 1060

(B) No home health agency shall employ an applicant or 1061  
continue to employ an employee in a position that involves 1062  
providing direct care to an individual if any of the following 1063  
apply: 1064

(1) A review of the databases listed in division (D) of 1065  
this section reveals any of the following: 1066

(a) That the applicant or employee is included in one or 1067  
more of the databases listed in divisions (D) (1) to (5) of this 1068

section; 1069

(b) That there is in the state nurse aide registry 1070  
established under section 3721.32 of the Revised Code a 1071  
statement detailing findings by the director of health that the 1072  
applicant or employee neglected or abused a long-term care 1073  
facility or residential care facility resident or 1074  
misappropriated property of such a resident; 1075

(c) That the applicant or employee is included in one or 1076  
more of the databases, if any, specified in rules adopted under 1077  
this section and the rules prohibit the home health agency from 1078  
employing an applicant or continuing to employ an employee 1079  
included in such a database in a position that involves 1080  
providing direct care to an individual. 1081

(2) After the applicant or employee is provided, pursuant 1082  
to division (E) (2) (a) of this section, a copy of the form 1083  
prescribed pursuant to division (C) (1) of section 109.572 of the 1084  
Revised Code and the standard impression sheet prescribed 1085  
pursuant to division (C) (2) of that section, the applicant or 1086  
employee fails to complete the form or provide the applicant's 1087  
or employee's fingerprint impressions on the standard impression 1088  
sheet. 1089

(3) Except as provided in rules adopted under this 1090  
section, the applicant or employee is found by a criminal 1091  
records check required by this section to have been convicted 1092  
of, pleaded guilty to, or been found eligible for intervention 1093  
in lieu of conviction for a disqualifying offense. 1094

(C) Except as provided by division (F) of this section, 1095  
the chief administrator of a home health agency shall inform 1096  
each applicant of both of the following at the time of the 1097

applicant's initial application for employment or referral to 1098  
the home health agency by an employment service for a position 1099  
that involves providing direct care to an individual: 1100

(1) That a review of the databases listed in division (D) 1101  
of this section will be conducted to determine whether the home 1102  
health agency is prohibited by division (B) (1) of this section 1103  
from employing the applicant in the position; 1104

(2) That, unless the database review reveals that the 1105  
applicant may not be employed in the position, a criminal 1106  
records check of the applicant will be conducted and the 1107  
applicant is required to provide a set of the applicant's 1108  
fingerprint impressions as part of the criminal records check. 1109

(D) As a condition of employing any applicant in a 1110  
position that involves providing direct care to an individual, 1111  
the chief administrator of a home health agency shall conduct a 1112  
database review of the applicant in accordance with rules 1113  
adopted under this section. If rules adopted under this section 1114  
so require, the chief administrator of a home health agency 1115  
shall conduct a database review of an employee in accordance 1116  
with the rules as a condition of continuing to employ the 1117  
employee in a position that involves providing direct care to an 1118  
individual. However, the chief administrator is not required to 1119  
conduct a database review of an applicant or employee if 1120  
division (F) of this section applies. A database review shall 1121  
determine whether the applicant or employee is included in any 1122  
of the following: 1123

(1) The excluded parties list system that is maintained by 1124  
the United States general services administration pursuant to 1125  
subpart 9.4 of the federal acquisition regulation and available 1126  
at the federal web site known as the system for award 1127

management;	1128
(2) The list of excluded individuals and entities	1129
maintained by the office of inspector general in the United	1130
States department of health and human services pursuant to the	1131
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7	1132
and 1320c-5;	1133
(3) The registry of MR/DD employees established under	1134
section 5123.52 of the Revised Code;	1135
(4) The internet-based sex offender and child-victim	1136
offender database established under division (A) (11) of section	1137
2950.13 of the Revised Code;	1138
(5) The internet-based database of inmates established	1139
under section 5120.66 of the Revised Code;	1140
(6) The state nurse aide registry established under	1141
section 3721.32 of the Revised Code;	1142
(7) Any other database, if any, specified in rules adopted	1143
under this section.	1144
(E) (1) As a condition of employing any applicant in a	1145
position that involves providing direct care to an individual,	1146
the chief administrator of a home health agency shall request	1147
the superintendent of the bureau of criminal identification and	1148
investigation to conduct a criminal records check of the	1149
applicant. If rules adopted under this section so require, the	1150
chief administrator of a home health agency shall request the	1151
superintendent to conduct a criminal records check of an	1152
employee at times specified in the rules as a condition of	1153
continuing to employ the employee in a position that involves	1154
providing direct care to an individual. However, the chief	1155
administrator is not required to request the criminal records	1156

check of the applicant or the employee if division (F) of this 1157  
section applies or the home health agency is prohibited by 1158  
division (B)(1) of this section from employing the applicant or 1159  
continuing to employ the employee in a position that involves 1160  
providing direct care to an individual. If an applicant or 1161  
employee for whom a criminal records check request is required 1162  
by this section does not present proof of having been a resident 1163  
of this state for the five-year period immediately prior to the 1164  
date upon which the criminal records check is requested or does 1165  
not provide evidence that within that five-year period the 1166  
superintendent has requested information about the applicant 1167  
from the federal bureau of investigation in a criminal records 1168  
check, the chief administrator shall request that the 1169  
superintendent obtain information from the federal bureau of 1170  
investigation as a part of the criminal records check. Even if 1171  
an applicant or employee for whom a criminal records check 1172  
request is required by this section presents proof that the 1173  
applicant or employee has been a resident of this state for that 1174  
five-year period, the chief administrator may request that the 1175  
superintendent include information from the federal bureau of 1176  
investigation in the criminal records check. 1177

(2) The chief administrator shall do all of the following: 1178

(a) Provide to each applicant and employee for whom a 1179  
criminal records check request is required by this section a 1180  
copy of the form prescribed pursuant to division (C)(1) of 1181  
section 109.572 of the Revised Code and a standard impression 1182  
sheet prescribed pursuant to division (C)(2) of that section; 1183

(b) Obtain the completed form and standard impression 1184  
sheet from each applicant and employee; 1185

(c) Forward the completed form and standard impression 1186

sheet to the superintendent at the time the chief administrator 1187  
requests the criminal records check. 1188

(3) A home health agency shall pay to the bureau of 1189  
criminal identification and investigation the fee prescribed 1190  
pursuant to division (C) (3) of section 109.572 of the Revised 1191  
Code for each criminal records check the agency requests under 1192  
this section. A home health agency may charge an applicant a fee 1193  
not exceeding the amount the agency pays to the bureau under 1194  
this section if both of the following apply: 1195

(a) The home health agency notifies the applicant at the 1196  
time of initial application for employment of the amount of the 1197  
fee and that, unless the fee is paid, the applicant will not be 1198  
considered for employment. 1199

(b) The medicaid program does not reimburse the home 1200  
health agency for the fee it pays to the bureau under this 1201  
section. 1202

(F) Divisions (C) to (E) of this section do not apply with 1203  
regard to an applicant or employee if the applicant or employee 1204  
is referred to a home health agency by an employment service 1205  
that supplies full-time, part-time, or temporary staff for 1206  
positions that involve providing direct care to an individual 1207  
and both of the following apply: 1208

(1) The chief administrator of the home health agency 1209  
receives from the employment service confirmation that a review 1210  
of the databases listed in division (D) of this section was 1211  
conducted with regard to the applicant or employee. 1212

(2) The chief administrator of the home health agency 1213  
receives from the employment service, applicant, or employee a 1214  
report of the results of a criminal records check of the 1215

applicant or employee that has been conducted by the 1216  
superintendent within the one-year period immediately preceding 1217  
the following: 1218

(a) In the case of an applicant, the date of the 1219  
applicant's referral by the employment service to the home 1220  
health agency; 1221

(b) In the case of an employee, the date by which the home 1222  
health agency would otherwise have to request a criminal records 1223  
check of the employee under division (E) of this section. 1224

(G) (1) A home health agency may employ conditionally an 1225  
applicant for whom a criminal records check request is required 1226  
by this section before obtaining the results of the criminal 1227  
records check if the agency is not prohibited by division (B) of 1228  
this section from employing the applicant in a position that 1229  
involves providing direct care to an individual and either of 1230  
the following applies: 1231

(a) The chief administrator of the home health agency 1232  
requests the criminal records check in accordance with division 1233  
(E) of this section not later than five business days after the 1234  
applicant begins conditional employment. 1235

(b) The applicant is referred to the home health agency by 1236  
an employment service, the employment service or the applicant 1237  
provides the chief administrator of the agency a letter that is 1238  
on the letterhead of the employment service, the letter is dated 1239  
and signed by a supervisor or another designated official of the 1240  
employment service, and the letter states all of the following: 1241

(i) That the employment service has requested the 1242  
superintendent to conduct a criminal records check regarding the 1243  
applicant; 1244

(ii) That the requested criminal records check is to 1245  
include a determination of whether the applicant has been 1246  
convicted of, pleaded guilty to, or been found eligible for 1247  
intervention in lieu of conviction for a disqualifying offense; 1248

(iii) That the employment service has not received the 1249  
results of the criminal records check as of the date set forth 1250  
on the letter; 1251

(iv) That the employment service promptly will send a copy 1252  
of the results of the criminal records check to the chief 1253  
administrator of the home health agency when the employment 1254  
service receives the results. 1255

(2) If a home health agency employs an applicant 1256  
conditionally pursuant to division (G) (1) (b) of this section, 1257  
the employment service, on its receipt of the results of the 1258  
criminal records check, promptly shall send a copy of the 1259  
results to the chief administrator of the agency. 1260

(3) A home health agency that employs an applicant 1261  
conditionally pursuant to division (G) (1) (a) or (b) of this 1262  
section shall terminate the applicant's employment if the 1263  
results of the criminal records check, other than the results of 1264  
any request for information from the federal bureau of 1265  
investigation, are not obtained within the period ending sixty 1266  
days after the date the request for the criminal records check 1267  
is made. Regardless of when the results of the criminal records 1268  
check are obtained, if the results indicate that the applicant 1269  
has been convicted of, pleaded guilty to, or been found eligible 1270  
for intervention in lieu of conviction for a disqualifying 1271  
offense, the home health agency shall terminate the applicant's 1272  
employment unless circumstances specified in rules adopted under 1273  
this section that permit the agency to employ the applicant 1274

exist and the agency chooses to employ the applicant. 1275

Termination of employment under this division shall be 1276

considered just cause for discharge for purposes of division (D) 1277

(2) of section 4141.29 of the Revised Code if the applicant 1278

makes any attempt to deceive the home health agency about the 1279

applicant's criminal record. 1280

(H) The report of any criminal records check conducted by 1281

the bureau of criminal identification and investigation in 1282

accordance with section 109.572 of the Revised Code and pursuant 1283

to a request made under this section is not a public record for 1284

the purposes of section 149.43 of the Revised Code and shall not 1285

be made available to any person other than the following: 1286

(1) The applicant or employee who is the subject of the 1287

criminal records check or the applicant's or employee's 1288

representative; 1289

(2) The home health agency requesting the criminal records 1290

check or its representative; 1291

(3) The administrator of any other facility, agency, or 1292

program that provides direct care to individuals that is owned 1293

or operated by the same entity that owns or operates the home 1294

health agency that requested the criminal records check; 1295

(4) The employment service that requested the criminal 1296

records check; 1297

(5) The director of health and the staff of the department 1298

of health who monitor a home health agency's compliance with 1299

this section; 1300

(6) The director of aging or the director's designee if 1301

either of the following apply: 1302

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

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

(7) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if either of the following apply:

(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a waiver agency;

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a home health agency that also is a waiver agency.

(8) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program.

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

property caused by an applicant or employee who a home health 1331  
agency employs in a position that involves providing direct care 1332  
to an individual, all of the following shall apply: 1333

(1) If the home health agency employed the applicant or 1334  
employee in good faith and reasonable reliance on the report of 1335  
a criminal records check requested under this section, the 1336  
agency shall not be found negligent solely because of its 1337  
reliance on the report, even if the information in the report is 1338  
determined later to have been incomplete or inaccurate. 1339

(2) If the home health agency employed the applicant in 1340  
good faith on a conditional basis pursuant to division (G) of 1341  
this section, the agency shall not be found negligent solely 1342  
because it employed the applicant prior to receiving the report 1343  
of a criminal records check requested under this section. 1344

(3) If the home health agency in good faith employed the 1345  
applicant or employee according to the personal character 1346  
standards established in rules adopted under this section, the 1347  
agency shall not be found negligent solely because the applicant 1348  
or employee had been convicted of, pleaded guilty to, or been 1349  
found eligible for intervention in lieu of conviction for a 1350  
disqualifying offense. 1351

(J) The director of health shall adopt rules in accordance 1352  
with Chapter 119. of the Revised Code to implement this section. 1353

(1) The rules may do the following: 1354

(a) Require employees to undergo database reviews and 1355  
criminal records checks under this section; 1356

(b) If the rules require employees to undergo database 1357  
reviews and criminal records checks under this section, exempt 1358  
one or more classes of employees from the requirements; 1359

(c) For the purpose of division (D) (7) of this section, 1360  
specify other databases that are to be checked as part of a 1361  
database review conducted under this section. 1362

(2) The rules shall specify all of the following: 1363

(a) The procedures for conducting database reviews under 1364  
this section; 1365

(b) If the rules require employees to undergo database 1366  
reviews and criminal records checks under this section, the 1367  
times at which the database reviews and criminal records checks 1368  
are to be conducted; 1369

(c) If the rules specify other databases to be checked as 1370  
part of the database reviews, the circumstances under which a 1371  
home health agency is prohibited from employing an applicant or 1372  
continuing to employ an employee who is found by a database 1373  
review to be included in one or more of those databases; 1374

(d) Circumstances under which a home health agency may 1375  
employ an applicant or employee who is found by a criminal 1376  
records check required by this section to have been convicted 1377  
of, pleaded guilty to, or been found eligible for intervention 1378  
in lieu of conviction for a disqualifying offense but meets 1379  
personal character standards. 1380

**Sec. 3712.01.** As used in this chapter: 1381

(A) "Hospice care program" means a coordinated program of 1382  
home, outpatient, and inpatient care and services that is 1383  
operated by a person or public agency and that provides the 1384  
following care and services to hospice patients, including 1385  
services as indicated below to hospice patients' families, 1386  
through a medically directed interdisciplinary team, under 1387  
interdisciplinary plans of care established pursuant to section 1388

3712.06 of the Revised Code, in order to meet the physical,	1389
psychological, social, spiritual, and other special needs that	1390
are experienced during the final stages of illness, dying, and	1391
bereavement:	1392
(1) Nursing care by or under the supervision of a	1393
registered nurse;	1394
(2) Physical, occupational, or speech or language therapy,	1395
unless waived by the department of health pursuant to rules	1396
adopted under division (A) of section 3712.03 of the Revised	1397
Code;	1398
(3) Medical social services by a social worker under the	1399
direction of a physician;	1400
(4) Services of a home health aide;	1401
(5) Medical supplies, including drugs and biologicals, and	1402
the use of medical appliances;	1403
(6) Physician's services;	1404
(7) Short-term inpatient care, including both palliative	1405
and respite care and procedures;	1406
(8) Counseling for hospice patients and hospice patients'	1407
families;	1408
(9) Services of volunteers under the direction of the	1409
provider of the hospice care program;	1410
(10) Bereavement services for hospice patients' families.	1411
"Hospice care program" does not include a <u>palliative care</u>	1412
<u>facility or pediatric</u> respite care program.	1413
(B) "Hospice patient" means a patient, other than a	1414
pediatric respite care patient, who has been diagnosed as	1415

terminally ill, has an anticipated life expectancy of six months 1416  
or less, and has voluntarily requested and is receiving care 1417  
from a person or public agency licensed under this chapter to 1418  
provide a hospice care program. 1419

(C) "Hospice patient's family" means a hospice patient's 1420  
immediate family members, including a spouse, brother, sister, 1421  
child, or parent, and any other relative or individual who has 1422  
significant personal ties to the patient and who is designated 1423  
as a member of the patient's family by mutual agreement of the 1424  
patient, the relative or individual, and the patient's 1425  
interdisciplinary team. 1426

(D) "Interdisciplinary team" means a working unit composed 1427  
of professional and lay persons that includes at least a 1428  
physician, a registered nurse, a social worker, a member of the 1429  
clergy or a counselor, and a volunteer. 1430

(E) "Palliative care" means treatment for a patient with a 1431  
serious, chronic, or life-threatening illness directed at 1432  
controlling pain, relieving other symptoms, and enhancing the 1433  
quality of life of the patient and the patient's family,  1434  
particularly with psychosocial support and medical decision 1435  
guidance, rather than treatment for the purpose of cure. Nothing 1436  
in this ~~section~~ chapter shall be interpreted to mean that 1437  
palliative care can be provided only in a palliative care 1438  
facility or as a component of a hospice care program or 1439  
pediatric respite care program. 1440

(F) "Physician" means a person authorized under Chapter 1441  
4731. of the Revised Code to practice medicine and surgery or 1442  
osteopathic medicine and surgery. 1443

(G) "Attending physician" means the physician identified 1444

by the hospice patient, pediatric respite care patient, hospice 1445  
patient's family, or pediatric respite care patient's family as 1446  
having primary responsibility for the medical care of the 1447  
hospice patient or pediatric respite care patient. 1448

(H) "Registered nurse" means a person registered under 1449  
Chapter 4723. of the Revised Code to practice professional 1450  
nursing. 1451

(I) "Social worker" means a person licensed under Chapter 1452  
4757. of the Revised Code to practice as a social worker or 1453  
independent social worker. 1454

(J) "Pediatric respite care program" means a program 1455  
operated by a person or public agency that provides inpatient 1456  
respite care and related services, including all of the 1457  
following services, only to pediatric respite care patients and, 1458  
as indicated below, pediatric respite care patients' families, 1459  
in order to meet the physical, psychological, social, spiritual, 1460  
and other special needs that are experienced during or leading 1461  
up to the final stages of illness, dying, and bereavement: 1462

(1) Short-term inpatient care, including both palliative 1463  
and respite care and procedures; 1464

(2) Nursing care by or under the supervision of a 1465  
registered nurse; 1466

(3) Physician's services; 1467

(4) Medical social services by a social worker under the 1468  
direction of a physician; 1469

(5) Medical supplies, including drugs and biologicals, and 1470  
the use of medical appliances; 1471

(6) Counseling for pediatric respite care patients and 1472

pediatric respite care patients' families;	1473
(7) Bereavement services for respite care patients' families.	1474 1475
"Pediatric respite care program" does not include a hospice care program <u>or palliative care facility</u> .	1476 1477
(K) "Pediatric respite care patient" means a patient, other than a hospice patient <u>or palliative care patient</u> , who is less than twenty-seven years of age and to whom all of the following conditions apply:	1478 1479 1480 1481
(1) The patient has been diagnosed with a disease or condition that is life-threatening and is expected to shorten the life expectancy that would have applied to the patient absent the patient's diagnosis, regardless of whether the patient is terminally ill.	1482 1483 1484 1485 1486
(2) The diagnosis described in division (K) (1) of this section occurred while the patient was less than eighteen years of age.	1487 1488 1489
(3) The patient has voluntarily requested and is receiving care from a person or public agency licensed under this chapter to provide a pediatric respite care program.	1490 1491 1492
(L) "Pediatric respite care patient's family" means a pediatric respite care patient's 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 as a member of the patient's family by mutual agreement of the patient, the relative or individual, and the patient's interdisciplinary team.	1493 1494 1495 1496 1497 1498 1499
<u>(M) "Palliative care facility" means a facility operated</u>	1500

by a person or public agency that provides palliative care 1501  
twenty-four hours a day and seven days a week, the medical 1502  
components of which are under the direction of a physician; 1503

(N) "Palliative care patient" means a patient who has 1504  
voluntarily requested and is receiving care from a person or 1505  
public agency licensed under this chapter to operate a 1506  
palliative care facility. 1507

**Sec. 3712.032.** (A) In accordance with Chapter 119. of the 1508  
Revised Code, the director of health shall adopt rules that do 1509  
all of the following: 1510

(1) Subject to division (B) (1) of this section, provide 1511  
for the licensing of persons or public agencies operating 1512  
palliative care facilities within this state by the department 1513  
of health and for the suspension and revocation of licenses; 1514

(2) Establish a license fee and license renewal fee for 1515  
palliative care facilities, neither of which shall, except as 1516  
provided in division (C) of this section, exceed six hundred 1517  
dollars. The fees shall cover the three-year period during which 1518  
an existing license is valid as provided in division (B) of 1519  
section 3712.042 of the Revised Code. 1520

(3) Establish an inspection fee not to exceed, except as 1521  
provided in division (C) of this section, one thousand seven 1522  
hundred fifty dollars; 1523

(4) Subject to division (B) (2) of this section, establish 1524  
requirements for palliative care facilities and services; 1525

(5) Provide for the granting of licenses to operate 1526  
palliative care facilities to persons and public agencies that 1527  
are accredited or certified to operate such facilities by an 1528  
entity whose standards for accreditation or certification equal 1529

or exceed those provided for licensure under this chapter and 1530  
rules adopted under it; 1531

(6) Establish metrics to measure the quality of care 1532  
provided by palliative care facilities; 1533

(7) Establish interpretive guidelines for each rule 1534  
adopted under divisions (A)(1) to (6) of this section. 1535

(B)(1) The rules adopted under division (A)(1) of this 1536  
section shall require a palliative care facility to be inspected 1537  
as a condition of initial licensure and not less than every 1538  
three years thereafter while the license is maintained. 1539

(2) Both of the following apply to the rules adopted under 1540  
division (A)(4) of this section: 1541

(a) The rules shall be consistent with standards for the 1542  
operation of palliative care facilities and the provision of 1543  
palliative care services specified by the center to advance 1544  
palliative care (CAPC) that is affiliated with the Icahn school 1545  
of medicine at Mount Sinai medical center in New York City, New 1546  
York. 1547

(b) The rules shall specify the number of qualified staff, 1548  
including physicians, registered nurses, social workers, and 1549  
spiritual or other counselors, that must be on duty twenty-four 1550  
hours a day and seven days a week. The number specified shall be 1551  
based on the number of patients the facility is able to admit 1552  
and patient acuity levels. 1553

(C) Subject to the approval of the controlling board, the 1554  
director of health may establish fees in excess of the maximum 1555  
amounts specified in this section, provided that the fees do not 1556  
exceed those amounts by greater than fifty per cent. 1557

(D) The department of health shall: 1558

(1) Grant, suspend, and revoke licenses for palliative 1559  
care facilities in accordance with this chapter and rules 1560  
adopted under it; 1561

(2) Make such inspections as are necessary, including 1562  
those required by rules adopted in accordance with division (B) 1563  
(1) of this section, to determine whether palliative care 1564  
facilities and services meet the requirements of this chapter 1565  
and rules adopted under it; and 1566

(3) Implement and enforce provisions of this chapter and 1567  
rules adopted under it as such provisions apply to palliative 1568  
care facilities. 1569

**Sec. 3712.042.** Every person or public agency that proposes 1570  
to operate a palliative care facility shall apply to the 1571  
department of health for a license. Application shall be made on 1572  
forms prescribed and provided by the department, shall include 1573  
such information as the department requires, and shall be 1574  
accompanied by the license fee established in rules adopted by 1575  
the director of health under division (A) of section 3712.032 of 1576  
the Revised Code. 1577

The department shall grant a license to the applicant if 1578  
the applicant is in compliance with this chapter and rules 1579  
adopted under it. 1580

(B) A license granted under this section shall be valid 1581  
for three years. Application for renewal of a license shall be 1582  
made at least ninety days before the expiration of the license 1583  
in the same manner as for an initial license. The department 1584  
shall renew the license if the applicant meets the requirements 1585  
of this chapter and rules adopted under it. 1586

(C) Subject to Chapter 119. of the Revised Code, the 1587  
department may suspend or revoke a license if the licensee made 1588  
any material representation in the application for the license 1589  
or no longer meets the requirements of this chapter or rules 1590  
adopted under it. 1591

Sec. 3712.052. (A) As used in this division, "person" does 1592  
not include a member of an interdisciplinary team, as defined in 1593  
section 3712.01 of the Revised Code, or any individual who is 1594  
employed by a person or public agency licensed under section 1595  
3712.042 of the Revised Code. 1596

Except as provided in division (B) of this section, no 1597  
person or public agency, other than a person or public agency 1598  
licensed pursuant to section 3712.042 of the Revised Code, shall 1599  
hold itself as operating a palliative care facility or operate a 1600  
palliative care facility. 1601

(B) Division (A) of this section does not apply to any of 1602  
the following: 1603

(1) A hospital; 1604

(2) A nursing home or residential care facility, as those 1605  
terms are defined in section 3721.01 of the Revised Code; 1606

(3) A home health agency; 1607

(4) A regional, state, or national nonprofit organization 1608  
whose members are operators of palliative care facilities, 1609  
individuals interested in palliative care facilities, or both, 1610  
as long as the organization does not provide or represent that 1611  
it operates a palliative care facility; 1612

(5) A person or government entity certified under section 1613  
5123.161 of the Revised Code as a supported living provider; 1614

<u>(6) A residential facility licensed under section 5123.19</u>	1615
<u>of the Revised Code;</u>	1616
<u>(7) A respite care home certified under section 5126.05 of</u>	1617
<u>the Revised Code;</u>	1618
<u>(8) A person providing respite care under a family support</u>	1619
<u>services program established under section 5126.11 of the</u>	1620
<u>Revised Code;</u>	1621
<u>(9) A person or government entity providing respite care</u>	1622
<u>under a medicaid waiver component that the department of</u>	1623
<u>developmental disabilities administers pursuant to section</u>	1624
<u>5166.21 of the Revised Code;</u>	1625
<u>(10) A hospice care program licensed under section 3712.04</u>	1626
<u>of the Revised Code;</u>	1627
<u>(11) A terminal care facility for the homeless that has</u>	1628
<u>entered into an agreement under section 3712.07 of the Revised</u>	1629
<u>Code;</u>	1630
<u>(12) A pediatric respite care program licensed under</u>	1631
<u>section 3712.041 of the Revised Code.</u>	1632
<u>(C) The department of health shall petition the court of</u>	1633
<u>common pleas of any county in which a person or public agency,</u>	1634
<u>without a license granted under section 3712.042 of the Revised</u>	1635
<u>Code, is holding itself out as operating a palliative care</u>	1636
<u>facility, is operating a palliative care facility, or is</u>	1637
<u>representing a health program or agency as a palliative care</u>	1638
<u>facility, for an order enjoining that person or public agency</u>	1639
<u>from conducting those activities without a license. The court</u>	1640
<u>has jurisdiction to grant injunctive relief on a showing that</u>	1641
<u>the respondent named in the petition is conducting those</u>	1642
<u>activities without a license.</u>	1643

Any person or public agency may request the department to 1644  
petition the court for injunctive relief under this division, 1645  
and the department shall do so if it determines that the person 1646  
or public agency named in the request is violating division (A) 1647  
of this section. 1648

**Sec. 3712.063.** Notwithstanding any provision of this 1649  
chapter specifying that a hospice care program may provide care 1650  
and services only to hospice patients, a hospice care program 1651  
licensed under section 3712.04 of the Revised Code that operates 1652  
an inpatient facility or unit in which services described in 1653  
division (A) of section 3712.01 of the Revised Code are provided 1654  
may provide palliative care to any patient. 1655

**Sec. 3712.09.** (A) As used in this section: 1656

(1) "Applicant" means a person who is under final 1657  
consideration for employment with a hospice care program ~~or,~~ 1658  
pediatric respite care program, or palliative care facility in a 1659  
full-time, part-time, or temporary position that involves 1660  
providing direct care to an older adult ~~or,~~ pediatric respite 1661  
care patient, or palliative care patient. "Applicant" does not 1662  
include a person who provides direct care as a volunteer without 1663  
receiving or expecting to receive any form of remuneration other 1664  
than reimbursement for actual expenses. 1665

(2) "Criminal records check" has the same meaning as in 1666  
section 109.572 of the Revised Code. 1667

(3) "Older adult" means a person age sixty or older. 1668

(B) (1) Except as provided in division (I) of this section, 1669  
the chief administrator of a hospice care program ~~or,~~ pediatric 1670  
respite care program, or palliative care facility shall request 1671  
that the superintendent of the bureau of criminal identification 1672

and investigation conduct a criminal records check of each 1673  
applicant. If an applicant for whom a criminal records check 1674  
request is required under this division does not present proof 1675  
of having been a resident of this state for the five-year period 1676  
immediately prior to the date the criminal records check is 1677  
requested or provide evidence that within that five-year period 1678  
the superintendent has requested information about the applicant 1679  
from the federal bureau of investigation in a criminal records 1680  
check, the chief administrator shall request that the 1681  
superintendent obtain information from the federal bureau of 1682  
investigation as part of the criminal records check of the 1683  
applicant. Even if an applicant for whom a criminal records 1684  
check request is required under this division presents proof of 1685  
having been a resident of this state for the five-year period, 1686  
the chief administrator may request that the superintendent 1687  
include information from the federal bureau of investigation in 1688  
the criminal records check. 1689

(2) A person required by division (B) (1) of this section 1690  
to request a criminal records check shall do both of the 1691  
following: 1692

(a) Provide to each applicant for whom a criminal records 1693  
check request is required under that division a copy of the form 1694  
prescribed pursuant to division (C) (1) of section 109.572 of the 1695  
Revised Code and a standard fingerprint impression sheet 1696  
prescribed pursuant to division (C) (2) of that section, and 1697  
obtain the completed form and impression sheet from the 1698  
applicant; 1699

(b) Forward the completed form and impression sheet to the 1700  
superintendent of the bureau of criminal identification and 1701  
investigation. 1702

(3) An applicant provided the form and fingerprint 1703  
impression sheet under division (B) (2) (a) of this section who 1704  
fails to complete the form or provide fingerprint impressions 1705  
shall not be employed in any position for which a criminal 1706  
records check is required by this section. 1707

(C) (1) Except as provided in rules adopted by the director 1708  
of health in accordance with division (F) of this section and 1709  
subject to division (C) (2) of this section, no hospice care 1710  
program ~~or~~, pediatric respite care program, or palliative care 1711  
facility shall employ a person in a position that involves 1712  
providing direct care to an older adult ~~or~~, pediatric respite 1713  
care patient, or palliative care patient if the person has been 1714  
convicted of or pleaded guilty to any of the following: 1715

(a) A violation of section 2903.01, 2903.02, 2903.03, 1716  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1717  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1718  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1719  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 1720  
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 1721  
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 1722  
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 1723  
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code. 1724

(b) A violation of an existing or former law of this 1725  
state, any other state, or the United States that is 1726  
substantially equivalent to any of the offenses listed in 1727  
division (C) (1) (a) of this section. 1728

(2) (a) A hospice care program ~~or~~, pediatric respite care 1729  
program, or palliative care facility may employ conditionally an 1730  
applicant for whom a criminal records check request is required 1731  
under division (B) of this section prior to obtaining the 1732

results of a criminal records check regarding the individual, 1733  
provided that the program or facility shall request a criminal 1734  
records check regarding the individual in accordance with 1735  
division (B) (1) of this section not later than five business 1736  
days after the individual begins conditional employment. In the 1737  
circumstances described in division (I) (2) of this section, a 1738  
hospice care program ~~or~~, pediatric respite care program, or 1739  
palliative care facility may employ conditionally an applicant 1740  
who has been referred to the ~~hospice care program or pediatric~~ 1741  
~~respite care program~~ facility by an employment service that 1742  
supplies full-time, part-time, or temporary staff for positions 1743  
involving the direct care of older adults ~~or~~, pediatric respite 1744  
care patients, or palliative care patients and for whom, 1745  
pursuant to that division, a criminal records check is not 1746  
required under division (B) of this section. 1747

(b) A hospice care program ~~or~~, pediatric respite care 1748  
program, or palliative care facility that employs an individual 1749  
conditionally under authority of division (C) (2) (a) of this 1750  
section shall terminate the individual's employment if the 1751  
results of the criminal records check requested under division 1752  
(B) of this section or described in division (I) (2) of this 1753  
section, other than the results of any request for information 1754  
from the federal bureau of investigation, are not obtained 1755  
within the period ending thirty days after the date the request 1756  
is made. Regardless of when the results of the criminal records 1757  
check are obtained, if the results indicate that the individual 1758  
has been convicted of or pleaded guilty to any of the offenses 1759  
listed or described in division (C) (1) of this section, the 1760  
program or facility shall terminate the individual's employment 1761  
unless the program or facility chooses to employ the individual 1762  
pursuant to division (F) of this section. Termination of 1763

employment under this division shall be considered just cause 1764  
for discharge for purposes of division (D) (2) of section 4141.29 1765  
of the Revised Code if the individual makes any attempt to 1766  
deceive the program about the individual's criminal record. 1767

(D) (1) Each hospice care program ~~or~~, pediatric respite 1768  
care program, or palliative care facility shall pay to the 1769  
bureau of criminal identification and investigation the fee 1770  
prescribed pursuant to division (C) (3) of section 109.572 of the 1771  
Revised Code for each criminal records check conducted pursuant 1772  
to a request made under division (B) of this section. 1773

(2) A hospice care program ~~or~~, pediatric respite care 1774  
program, or palliative care facility may charge an applicant a 1775  
fee not exceeding the amount the program pays under division (D) 1776  
(1) of this section. A program or facility may collect a fee 1777  
only if both of the following apply: 1778

(a) The program or facility notifies the person at the 1779  
time of initial application for employment of the amount of the 1780  
fee and that, unless the fee is paid, the person will not be 1781  
considered for employment; 1782

(b) The medicaid program does not reimburse the program or 1783  
facility the fee it pays under division (D) (1) of this section. 1784

(E) The report of a criminal records check conducted 1785  
pursuant to a request made under this section is not a public 1786  
record for the purposes of section 149.43 of the Revised Code 1787  
and shall not be made available to any person other than the 1788  
following: 1789

(1) The individual who is the subject of the criminal 1790  
records check or the individual's representative; 1791

(2) The chief administrator of the program or facility 1792

requesting the criminal records check or the administrator's 1793  
representative; 1794

(3) The administrator of any other facility, agency, or 1795  
program that provides direct care to older adults ~~or, pediatric~~ 1796  
respite care patients, or palliative care patients that is owned 1797  
or operated by the same entity that owns or operates the hospice 1798  
care program ~~or, pediatric respite care program, or palliative~~ 1799  
care facility; 1800

(4) A court, hearing officer, or other necessary 1801  
individual involved in a case dealing with a denial of 1802  
employment of the applicant or dealing with employment or 1803  
unemployment benefits of the applicant; 1804

(5) Any person to whom the report is provided pursuant to, 1805  
and in accordance with, division (I)(1) or (2) of this section. 1806

(F) The director of health shall adopt rules in accordance 1807  
with Chapter 119. of the Revised Code to implement this section. 1808  
The rules shall specify circumstances under which a hospice care 1809  
program ~~or, pediatric respite care program, or palliative care~~ 1810  
facility may employ a person who has been convicted of or 1811  
pleaded guilty to an offense listed or described in division (C) 1812  
(1) of this section but meets personal character standards set 1813  
by the director. 1814

(G) The chief administrator of a hospice care program ~~or, pediatric~~ 1815  
respite care program, or palliative care facility 1816  
shall inform each individual, at the time of initial application 1817  
for a position that involves providing direct care to an older 1818  
adult ~~or, pediatric respite care patient, or palliative care~~ 1819  
patient, that the individual is required to provide a set of 1820  
fingerprint impressions and that a criminal records check is 1821

required to be conducted if the individual comes under final 1822  
consideration for employment. 1823

(H) In a tort or other civil action for damages that is 1824  
brought as the result of an injury, death, or loss to person or 1825  
property caused by an individual who a hospice care program ~~or,~~ 1826  
pediatric respite care program, or palliative care facility 1827  
employs in a position that involves providing direct care to 1828  
older adults ~~or,~~ pediatric respite care patients, or palliative 1829  
care patients, all of the following shall apply: 1830

(1) If the program or facility employed the individual in 1831  
good faith and reasonable reliance on the report of a criminal 1832  
records check requested under this section, the program or 1833  
facility shall not be found negligent solely because of its 1834  
reliance on the report, even if the information in the report is 1835  
determined later to have been incomplete or inaccurate; 1836

(2) If the program or facility employed the individual in 1837  
good faith on a conditional basis pursuant to division (C) (2) of 1838  
this section, the program or facility shall not be found 1839  
negligent solely because it employed the individual prior to 1840  
receiving the report of a criminal records check requested under 1841  
this section; 1842

(3) If the program or facility in good faith employed the 1843  
individual according to the personal character standards 1844  
established in rules adopted under division (F) of this section, 1845  
the program or facility shall not be found negligent solely 1846  
because the individual prior to being employed had been 1847  
convicted of or pleaded guilty to an offense listed or described 1848  
in division (C) (1) of this section. 1849

(I) (1) The chief administrator of a hospice care program 1850

~~or, pediatric respite care program, or palliative care facility~~ 1851  
is not required to request that the superintendent of the bureau 1852  
of criminal identification and investigation conduct a criminal 1853  
records check of an applicant if the applicant has been referred 1854  
to the program by an employment service that supplies full-time, 1855  
part-time, or temporary staff for positions involving the direct 1856  
care of older adults~~or, pediatric respite care patients, or~~ 1857  
palliative care patients and both of the following apply: 1858

(a) The chief administrator receives from the employment 1859  
service or the applicant a report of the results of a criminal 1860  
records check regarding the applicant that has been conducted by 1861  
the superintendent within the one-year period immediately 1862  
preceding the applicant's referral; 1863

(b) The report of the criminal records check demonstrates 1864  
that the person has not been convicted of or pleaded guilty to 1865  
an offense listed or described in division (C)(1) of this 1866  
section, or the report demonstrates that the person has been 1867  
convicted of or pleaded guilty to one or more of those offenses, 1868  
but the hospice care program~~or, pediatric respite care~~ 1869  
program, or palliative care facility chooses to employ the 1870  
individual pursuant to division (F) of this section. 1871

(2) The chief administrator of a hospice care program~~or, pediatric respite care program, or palliative care facility~~ is 1872  
not required to request that the superintendent of the bureau of 1873  
criminal identification and investigation conduct a criminal 1874  
records check of an applicant and may employ the applicant 1875  
conditionally as described in this division, if the applicant 1876  
has been referred to the program or facility by an employment 1877  
service that supplies full-time, part-time, or temporary staff 1878  
for positions involving the direct care of older adults~~or,~~ 1879  
or facility 1880

pediatric respite care patients, or palliative care patients and 1881  
if the chief administrator receives from the employment service 1882  
or the applicant a letter from the employment service that is on 1883  
the letterhead of the employment service, dated, and signed by a 1884  
supervisor or another designated official of the employment 1885  
service and that states that the employment service has 1886  
requested the superintendent to conduct a criminal records check 1887  
regarding the applicant, that the requested criminal records 1888  
check will include a determination of whether the applicant has 1889  
been convicted of or pleaded guilty to any offense listed or 1890  
described in division (C) (1) of this section, that, as of the 1891  
date set forth on the letter, the employment service had not 1892  
received the results of the criminal records check, and that, 1893  
when the employment service receives the results of the criminal 1894  
records check, it promptly will send a copy of the results to 1895  
the hospice care program ~~or~~, pediatric respite care program, or 1896  
palliative care facility. If a ~~hospice care program or pediatric~~ 1897  
~~respite care program~~ facility employs an applicant conditionally 1898  
in accordance with this division, the employment service, upon 1899  
its receipt of the results of the criminal records check, 1900  
promptly shall send a copy of the results to the ~~hospice care~~ 1901  
~~program or pediatric respite care program~~ facility, and division 1902  
(C) (2) (b) of this section applies regarding the conditional 1903  
employment. 1904

**Sec. 3721.01.** (A) As used in sections 3721.01 to 3721.09 1905  
and 3721.99 of the Revised Code: 1906

(1) (a) "Home" means an institution, residence, or facility 1907  
that provides, for a period of more than twenty-four hours, 1908  
whether for a consideration or not, accommodations to three or 1909  
more unrelated individuals who are dependent upon the services 1910  
of others, including a nursing home, residential care facility, 1911

home for the aging, and a veterans' home operated under Chapter	1912
5907. of the Revised Code.	1913
(b) "Home" also means both of the following:	1914
(i) Any facility that a person, as defined in section	1915
3702.51 of the Revised Code, proposes for certification as a	1916
skilled nursing facility or nursing facility under Title XVIII	1917
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42	1918
U.S.C.A. 301, as amended, and for which a certificate of need,	1919
other than a certificate to recategorize hospital beds as	1920
described in section 3702.521 of the Revised Code or division	1921
(R) (7) (d) of the version of section 3702.51 of the Revised Code	1922
in effect immediately prior to April 20, 1995, has been granted	1923
to the person under sections 3702.51 to 3702.62 of the Revised	1924
Code after August 5, 1989;	1925
(ii) A county home or district home that is or has been	1926
licensed as a residential care facility.	1927
(c) "Home" does not mean any of the following:	1928
(i) Except as provided in division (A) (1) (b) of this	1929
section, a public hospital or hospital as defined in section	1930
3701.01 or 5122.01 of the Revised Code;	1931
(ii) A residential facility as defined in section 5119.34	1932
of the Revised Code;	1933
(iii) A residential facility as defined in section 5123.19	1934
of the Revised Code;	1935
(iv) A community addiction services provider as defined in	1936
section 5119.01 of the Revised Code;	1937
(v) A facility licensed to provide methadone treatment	1938
under section 5119.391 of the Revised Code;	1939

(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;	1940 1941 1942
(vii) 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;	1943 1944 1945
(viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;	1946 1947 1948
(ix) <u>A palliative care facility licensed under section 3712.042 of the Revised Code;</u>	1949 1950
<u>(x)</u> A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program or the medicaid program if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;	1951 1952 1953 1954 1955 1956 1957 1958
<del>(x)</del> <u>(xi)</u> A county home or district home that has never been licensed as a residential care facility.	1959 1960
(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.	1961 1962 1963 1964 1965
(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.	1966 1967 1968

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5) (a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of

a physician or a licensed dietitian, in accordance with rules 1997  
adopted under section 3721.04 of the Revised Code. 1998

(b) "Personal care services" does not include "skilled 1999  
nursing care" as defined in division (A) (4) of this section. A 2000  
facility need not provide more than one of the services listed 2001  
in division (A) (5) (a) of this section to be considered to be 2002  
providing personal care services. 2003

(6) "Nursing home" means a home used for the reception and 2004  
care of individuals who by reason of illness or physical or 2005  
mental impairment require skilled nursing care and of 2006  
individuals who require personal care services but not skilled 2007  
nursing care. A nursing home is licensed to provide personal 2008  
care services and skilled nursing care. 2009

(7) "Residential care facility" means a home that provides 2010  
either of the following: 2011

(a) Accommodations for seventeen or more unrelated 2012  
individuals and supervision and personal care services for three 2013  
or more of those individuals who are dependent on the services 2014  
of others by reason of age or physical or mental impairment; 2015

(b) Accommodations for three or more unrelated 2016  
individuals, supervision and personal care services for at least 2017  
three of those individuals who are dependent on the services of 2018  
others by reason of age or physical or mental impairment, and, 2019  
to at least one of those individuals, any of the skilled nursing 2020  
care authorized by section 3721.011 of the Revised Code. 2021

(8) "Home for the aging" means a home that provides 2022  
services as a residential care facility and a nursing home, 2023  
except that the home provides its services only to individuals 2024  
who are dependent on the services of others by reason of both 2025

age and physical or mental impairment. 2026

The part or unit of a home for the aging that provides 2027  
services only as a residential care facility is licensed as a 2028  
residential care facility. The part or unit that may provide 2029  
skilled nursing care beyond the extent authorized by section 2030  
3721.011 of the Revised Code is licensed as a nursing home. 2031

(9) "County home" and "district home" mean a county home 2032  
or district home operated under Chapter 5155. of the Revised 2033  
Code. 2034

(B) The director of health may further classify homes. For 2035  
the purposes of this chapter, any residence, institution, hotel, 2036  
congregate housing project, or similar facility that meets the 2037  
definition of a home under this section is such a home 2038  
regardless of how the facility holds itself out to the public. 2039

(C) For purposes of this chapter, personal care services 2040  
or skilled nursing care shall be considered to be provided by a 2041  
facility if they are provided by a person employed by or 2042  
associated with the facility or by another person pursuant to an 2043  
agreement to which neither the resident who receives the 2044  
services nor the resident's sponsor is a party. 2045

(D) Nothing in division (A) (4) of this section shall be 2046  
construed to permit skilled nursing care to be imposed on an 2047  
individual who does not require skilled nursing care. 2048

Nothing in division (A) (5) of this section shall be 2049  
construed to permit personal care services to be imposed on an 2050  
individual who is capable of performing the activity in question 2051  
without assistance. 2052

(E) Division (A) (1) (c) (ix) of this section does not 2053  
prohibit a facility, infirmary, or other entity described in 2054

that division from seeking licensure under sections 3721.01 to 2055  
3721.09 of the Revised Code or certification under Title XVIII 2056  
or XIX of the "Social Security Act." However, such a facility, 2057  
infirmary, or entity that applies for licensure or certification 2058  
must meet the requirements of those sections or titles and the 2059  
rules adopted under them and obtain a certificate of need from 2060  
the director of health under section 3702.52 of the Revised 2061  
Code. 2062

(F) Nothing in this chapter, or rules adopted pursuant to 2063  
it, shall be construed as authorizing the supervision, 2064  
regulation, or control of the spiritual care or treatment of 2065  
residents or patients in any home who rely upon treatment by 2066  
prayer or spiritual means in accordance with the creed or tenets 2067  
of any recognized church or religious denomination. 2068

**Sec. 3795.01.** As used in sections 3795.01, 3795.02, and 2069  
3795.03 of the Revised Code: 2070

(A) "Assist suicide" or "assisting suicide" means 2071  
knowingly doing either of the following, with the purpose of 2072  
helping another person to commit or attempt suicide: 2073

(1) Providing the physical means by which the person 2074  
commits or attempts to commit suicide; 2075

(2) Participating in a physical act by which the person 2076  
commits or attempts to commit suicide. 2077

(B) "Certified nurse practitioner," "certified nurse- 2078  
midwife," and "clinical nurse specialist" have the same meanings 2079  
as in section 4723.01 of the Revised Code. 2080

(C) "CPR" has the same meaning as in section 2133.21 of 2081  
the Revised Code. 2082

(D) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat a person's physical or mental condition. 2083  
2084  
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(E) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care. 2086  
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(F) "Health care facility" means any of the following: 2089

(1) A hospital; 2090

(2) A hospice care program, palliative care facility, or pediatric respite care program as defined in section 3712.01 of the Revised Code; 2091  
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(3) A nursing home; 2094

(4) A home health agency; 2095

(5) An intermediate care facility for individuals with intellectual disabilities. 2096  
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(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. 2098  
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(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. 2104  
2105  
2106

**Sec. 3963.01.** As used in this chapter: 2107

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or 2108  
2109

controlled by a contracting entity, or is under common ownership 2110  
or control with a contracting entity. 2111

(B) "Basic health care services" has the same meaning as 2112  
in division (A) of section 1751.01 of the Revised Code, except 2113  
that it does not include any services listed in that division 2114  
that are provided by a pharmacist or nursing home. 2115

(C) "Contracting entity" means any person that has a 2116  
primary business purpose of contracting with participating 2117  
providers for the delivery of health care services. 2118

(D) "Credentialing" means the process of assessing and 2119  
validating the qualifications of a provider applying to be 2120  
approved by a contracting entity to provide basic health care 2121  
services, specialty health care services, or supplemental health 2122  
care services to enrollees. 2123

(E) "Edit" means adjusting one or more procedure codes 2124  
billed by a participating provider on a claim for payment or a 2125  
practice that results in any of the following: 2126

(1) Payment for some, but not all of the procedure codes 2127  
originally billed by a participating provider; 2128

(2) Payment for a different procedure code than the 2129  
procedure code originally billed by a participating provider; 2130

(3) A reduced payment as a result of services provided to 2131  
an enrollee that are claimed under more than one procedure code 2132  
on the same service date. 2133

(F) "Electronic claims transport" means to accept and 2134  
digitize claims or to accept claims already digitized, to place 2135  
those claims into a format that complies with the electronic 2136  
transaction standards issued by the United States department of 2137

health and human services pursuant to the "Health Insurance 2138  
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 2139  
U.S.C. 1320d, et seq., as those electronic standards are 2140  
applicable to the parties and as those electronic standards are 2141  
updated from time to time, and to electronically transmit those 2142  
claims to the appropriate contracting entity, payer, or third- 2143  
party administrator. 2144

(G) "Enrollee" means any person eligible for health care 2145  
benefits under a health benefit plan, including an eligible 2146  
recipient of medicaid, and includes all of the following terms: 2147

(1) "Enrollee" and "subscriber" as defined by section 2148  
1751.01 of the Revised Code; 2149

(2) "Member" as defined by section 1739.01 of the Revised 2150  
Code; 2151

(3) "Insured" and "plan member" pursuant to Chapter 3923. 2152  
of the Revised Code; 2153

(4) "Beneficiary" as defined by section 3901.38 of the 2154  
Revised Code. 2155

(H) "Health care contract" means a contract entered into, 2156  
materially amended, or renewed between a contracting entity and 2157  
a participating provider for the delivery of basic health care 2158  
services, specialty health care services, or supplemental health 2159  
care services to enrollees. 2160

(I) "Health care services" means basic health care 2161  
services, specialty health care services, and supplemental 2162  
health care services. 2163

(J) "Material amendment" means an amendment to a health 2164  
care contract that decreases the participating provider's 2165

payment or compensation, changes the administrative procedures 2166  
in a way that may reasonably be expected to significantly 2167  
increase the provider's administrative expenses, or adds a new 2168  
product. A material amendment does not include any of the 2169  
following: 2170

(1) A decrease in payment or compensation resulting solely 2171  
from a change in a published fee schedule upon which the payment 2172  
or compensation is based and the date of applicability is 2173  
clearly identified in the contract; 2174

(2) A decrease in payment or compensation that was 2175  
anticipated under the terms of the contract, if the amount and 2176  
date of applicability of the decrease is clearly identified in 2177  
the contract; 2178

(3) An administrative change that may significantly 2179  
increase the provider's administrative expense, the specific 2180  
applicability of which is clearly identified in the contract; 2181

(4) Changes to an existing prior authorization, 2182  
precertification, notification, or referral program that do not 2183  
substantially increase the provider's administrative expense; 2184

(5) Changes to an edit program or to specific edits if the 2185  
participating provider is provided notice of the changes 2186  
pursuant to division (A) (1) of section 3963.04 of the Revised 2187  
Code and the notice includes information sufficient for the 2188  
provider to determine the effect of the change; 2189

(6) Changes to a health care contract described in 2190  
division (B) of section 3963.04 of the Revised Code. 2191

(K) "Participating provider" means a provider that has a 2192  
health care contract with a contracting entity and is entitled 2193  
to reimbursement for health care services rendered to an 2194

enrollee under the health care contract.	2195
(L) "Payer" means any person that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services provided to enrollees by participating providers pursuant to a health care contract.	2196 2197 2198 2199
(M) "Primary enrollee" means a person who is responsible for making payments for participation in a health care plan or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health care plan.	2200 2201 2202 2203
(N) "Procedure codes" includes the American medical association's current procedural terminology code, the American dental association's current dental terminology, and the centers for medicare and medicaid services health care common procedure coding system.	2204 2205 2206 2207 2208
(O) "Product" means one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:	2209 2210 2211 2212
(1) A health maintenance organization or other product provided by a health insuring corporation;	2213 2214
(2) A preferred provider organization;	2215
(3) Medicare;	2216
(4) Medicaid;	2217
(5) Workers' compensation.	2218
(P) "Provider" means a physician, podiatrist, dentist, chiropractor, optometrist, psychologist, physician assistant, advanced practice registered nurse, occupational therapist,	2219 2220 2221

massage therapist, physical therapist, licensed professional 2222  
counselor, licensed professional clinical counselor, hearing aid 2223  
dealer, orthotist, prosthetist, home health agency, hospice care 2224  
program, pediatric respite care program, palliative care 2225  
facility, or hospital, or a provider organization or physician- 2226  
hospital organization that is acting exclusively as an 2227  
administrator on behalf of a provider to facilitate the 2228  
provider's participation in health care contracts. "Provider" 2229  
does not mean a pharmacist, pharmacy, nursing home, or a 2230  
provider organization or physician-hospital organization that 2231  
leases the provider organization's or physician-hospital 2232  
organization's network to a third party or contracts directly 2233  
with employers or health and welfare funds. 2234

(Q) "Specialty health care services" has the same meaning 2235  
as in section 1751.01 of the Revised Code, except that it does 2236  
not include any services listed in division (B) of section 2237  
1751.01 of the Revised Code that are provided by a pharmacist or 2238  
a nursing home. 2239

(R) "Supplemental health care services" has the same 2240  
meaning as in division (B) of section 1751.01 of the Revised 2241  
Code, except that it does not include any services listed in 2242  
that division that are provided by a pharmacist or nursing home. 2243

**Sec. 4719.01.** (A) As used in sections 4719.01 to 4719.18 2244  
of the Revised Code: 2245

(1) "Affiliate" means a business entity that is owned by, 2246  
operated by, controlled by, or under common control with another 2247  
business entity. 2248

(2) "Communication" means a written or oral notification 2249  
or advertisement that meets both of the following criteria, as 2250

applicable:	2251
(a) The notification or advertisement is transmitted by or	2252
on behalf of the seller of goods or services and by or through	2253
any printed, audio, video, cinematic, telephonic, or electronic	2254
means.	2255
(b) In the case of a notification or advertisement other	2256
than by telephone, either of the following conditions is met:	2257
(i) The notification or advertisement is followed by a	2258
telephone call from a telephone solicitor or salesperson.	2259
(ii) The notification or advertisement invites a response	2260
by telephone, and, during the course of that response, a	2261
telephone solicitor or salesperson attempts to make or makes a	2262
sale of goods or services. As used in division (A) (2) (b) (ii) of	2263
this section, "invites a response by telephone" excludes the	2264
mere listing or inclusion of a telephone number in a	2265
notification or advertisement.	2266
(3) "Gift, award, or prize" means anything of value that	2267
is offered or purportedly offered, or given or purportedly given	2268
by chance, at no cost to the receiver and with no obligation to	2269
purchase goods or services. As used in this division, "chance"	2270
includes a situation in which a person is guaranteed to receive	2271
an item and, at the time of the offer or purported offer, the	2272
telephone solicitor does not identify the specific item that the	2273
person will receive.	2274
(4) "Goods or services" means any real property or any	2275
tangible or intangible personal property, or services of any	2276
kind provided or offered to a person. "Goods or services"	2277
includes, but is not limited to, advertising; labor performed	2278
for the benefit of a person; personal property intended to be	2279

attached to or installed in any real property, regardless of 2280  
whether it is so attached or installed; timeshare estates or 2281  
licenses; and extended service contracts. 2282

(5) "Purchaser" means a person that is solicited to become 2283  
or does become financially obligated as a result of a telephone 2284  
solicitation. 2285

(6) "Salesperson" means an individual who is employed, 2286  
appointed, or authorized by a telephone solicitor to make 2287  
telephone solicitations but does not mean any of the following: 2288

(a) An individual who comes within one of the exemptions 2289  
in division (B) of this section; 2290

(b) An individual employed, appointed, or authorized by a 2291  
person who comes within one of the exemptions in division (B) of 2292  
this section; 2293

(c) An individual under a written contract with a person 2294  
who comes within one of the exemptions in division (B) of this 2295  
section, if liability for all transactions with purchasers is 2296  
assumed by the person so exempted. 2297

(7) "Telephone solicitation" means a communication to a 2298  
person that meets both of the following criteria: 2299

(a) The communication is initiated by or on behalf of a 2300  
telephone solicitor or by a salesperson. 2301

(b) The communication either represents a price or the 2302  
quality or availability of goods or services or is used to 2303  
induce the person to purchase goods or services, including, but 2304  
not limited to, inducement through the offering of a gift, 2305  
award, or prize. 2306

(8) "Telephone solicitor" means a person that engages in 2307

telephone solicitation directly or through one or more 2308  
salespersons either from a location in this state, or from a 2309  
location outside this state to persons in this state. "Telephone 2310  
solicitor" includes, but is not limited to, any such person that 2311  
is an owner, operator, officer, or director of, partner in, or 2312  
other individual engaged in the management activities of, a 2313  
business. 2314

(B) A telephone solicitor is exempt from the provisions of 2315  
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 2316  
Code if the telephone solicitor is any one of the following: 2317

(1) A person engaging in a telephone solicitation that is 2318  
a one-time or infrequent transaction not done in the course of a 2319  
pattern of repeated transactions of a like nature; 2320

(2) A person engaged in telephone solicitation solely for 2321  
religious or political purposes; a charitable organization, 2322  
fund-raising counsel, or professional solicitor in compliance 2323  
with the registration and reporting requirements of Chapter 2324  
1716. of the Revised Code; or any person or other entity exempt 2325  
under section 1716.03 of the Revised Code from filing a 2326  
registration statement under section 1716.02 of the Revised 2327  
Code; 2328

(3) A person, making a telephone solicitation involving a 2329  
home solicitation sale as defined in section 1345.21 of the 2330  
Revised Code, that makes the sales presentation and completes 2331  
the sale at a later, face-to-face meeting between the seller and 2332  
the purchaser rather than during the telephone solicitation. 2333  
However, if the person, following the telephone solicitation, 2334  
causes another person to collect the payment of any money, this 2335  
exemption does not apply. 2336

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B) (4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

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

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

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

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

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

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is

registered or is exempt from registration under 15 U.S.C.A. 2366  
781(g) (2) (A), (B), (C), (E), (F), (G), or (H); 2367

(ii) The class of securities is listed on the New York 2368  
stock exchange, the American stock exchange, or the NASDAQ 2369  
national market system; 2370

(iii) The class of securities is a reported security as 2371  
defined in 17 C.F.R. 240.11Aa3-1(a) (4). 2372

(b) An issuer, or its subsidiary, that formerly had a 2373  
class of securities that met the criteria set forth in division 2374  
(B) (6) (a) of this section if the issuer, or its subsidiary, has 2375  
a net worth in excess of one hundred million dollars, files or 2376  
its parent files with the securities and exchange commission an 2377  
S.E.C. form 10-K, and has continued in substantially the same 2378  
business since it had a class of securities that met the 2379  
criteria in division (B) (6) (a) of this section. As used in 2380  
division (B) (6) (b) of this section, "issuer" and "subsidiary" 2381  
include the successor to an issuer or subsidiary. 2382

(7) A person soliciting a transaction regulated by the 2383  
commodity futures trading commission, if the person is 2384  
registered or temporarily registered for that activity with the 2385  
commission under 7 U.S.C.A. 1 et seq. and the registration or 2386  
temporary registration has not expired or been suspended or 2387  
revoked; 2388

(8) A person soliciting the sale of any book, record, 2389  
audio tape, compact disc, or video, if the person allows the 2390  
purchaser to review the merchandise for at least seven days and 2391  
provides a full refund within thirty days to a purchaser who 2392  
returns the merchandise or if the person solicits the sale on 2393  
behalf of a membership club operating in compliance with 2394

regulations adopted by the federal trade commission in 16 C.F.R. 2395  
425; 2396

(9) A supervised financial institution or its subsidiary. 2397  
As used in division (B)(9) of this section, "supervised 2398  
financial institution" means a bank, trust company, savings and 2399  
loan association, savings bank, credit union, industrial loan 2400  
company, consumer finance lender, commercial finance lender, or 2401  
institution described in section 2(c)(2)(F) of the "Bank Holding 2402  
Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, 2403  
supervised by an official or agency of the United States, this 2404  
state, or any other state of the United States; or a licensee or 2405  
registrant under sections 1321.01 to 1321.19, 1321.51 to 2406  
1321.60, or 1321.71 to 1321.83 of the Revised Code. 2407

(10)(a) An insurance company, association, or other 2408  
organization that is licensed or authorized to conduct business 2409  
in this state by the superintendent of insurance pursuant to 2410  
Title XXXIX of the Revised Code or Chapter 1751. of the Revised 2411  
Code, when soliciting within the scope of its license or 2412  
authorization. 2413

(b) A licensed insurance broker, agent, or solicitor when 2414  
soliciting within the scope of the person's license. As used in 2415  
division (B)(10)(b) of this section, "licensed insurance broker, 2416  
agent, or solicitor" means any person licensed as an insurance 2417  
broker, agent, or solicitor by the superintendent of insurance 2418  
pursuant to Title XXXIX of the Revised Code. 2419

(11) A person soliciting the sale of services provided by 2420  
a cable television system operating under authority of a 2421  
governmental franchise or permit; 2422

(12) A person soliciting a business-to-business sale under 2423

which any of the following conditions are met:	2424
(a) The telephone solicitor has been operating	2425
continuously for at least three years under the same business	2426
name under which it solicits purchasers, and at least fifty-one	2427
per cent of its gross dollar volume of sales consists of repeat	2428
sales to existing customers to whom it has made sales under the	2429
same business name.	2430
(b) The purchaser business intends to resell the goods	2431
purchased.	2432
(c) The purchaser business intends to use the goods or	2433
services purchased in a recycling, reuse, manufacturing, or	2434
remanufacturing process.	2435
(d) The telephone solicitor is a publisher of a periodical	2436
or of magazines distributed as controlled circulation	2437
publications as defined in division (CC) of section 5739.01 of	2438
the Revised Code and is soliciting sales of advertising,	2439
subscriptions, reprints, lists, information databases,	2440
conference participation or sponsorships, trade shows or media	2441
products related to the periodical or magazine, or other	2442
publishing services provided by the controlled circulation	2443
publication.	2444
(13) A person that, not less often than once each year,	2445
publishes and delivers to potential purchasers a catalog that	2446
complies with both of the following:	2447
(a) It includes all of the following:	2448
(i) The business address of the seller;	2449
(ii) A written description or illustration of each good or	2450
service offered for sale;	2451

(iii) A clear and conspicuous disclosure of the sale price 2452  
of each good or service; shipping, handling, and other charges; 2453  
and return policy. 2454

(b) One of the following applies: 2455

(i) The catalog includes at least twenty-four pages of 2456  
written material and illustrations, is distributed in more than 2457  
one state, and has an annual postage-paid mail circulation of 2458  
not less than two hundred fifty thousand households; 2459

(ii) The catalog includes at least ten pages of written 2460  
material or an equivalent amount of material in electronic form 2461  
on the internet or an on-line computer service, the person does 2462  
not solicit customers by telephone but solely receives telephone 2463  
calls made in response to the catalog, and during the calls the 2464  
person takes orders but does not engage in further solicitation 2465  
of the purchaser. As used in division (B)(13)(b)(ii) of this 2466  
section, "further solicitation" does not include providing the 2467  
purchaser with information about, or attempting to sell, any 2468  
other item in the catalog that prompted the purchaser's call or 2469  
in a substantially similar catalog issued by the seller. 2470

(14) A political subdivision or instrumentality of the 2471  
United States, this state, or any state of the United States; 2472

(15) A college or university or any other public or 2473  
private institution of higher education in this state; 2474

(16) A public utility as defined in section 4905.02 of the 2475  
Revised Code or a retail natural gas supplier as defined in 2476  
section 4929.01 of the Revised Code, if the utility or supplier 2477  
is subject to regulation by the public utilities commission, or 2478  
the affiliate of the utility or supplier; 2479

(17) A person that solicits sales through a television 2480

program or advertisement that is presented in the same market 2481  
area no fewer than twenty days per month or offers for sale no 2482  
fewer than ten distinct items of goods or services; and offers 2483  
to the purchaser an unconditional right to return any good or 2484  
service purchased within a period of at least seven days and to 2485  
receive a full refund within thirty days after the purchaser 2486  
returns the good or cancels the service; 2487

(18) (a) A person that, for at least one year, has been 2488  
operating a retail business under the same name as that used in 2489  
connection with telephone solicitation and both of the following 2490  
occur on a continuing basis: 2491

(i) The person either displays goods and offers them for 2492  
retail sale at the person's business premises or offers services 2493  
for sale and provides them at the person's business premises. 2494

(ii) At least fifty-one per cent of the person's gross 2495  
dollar volume of retail sales involves purchases of goods or 2496  
services at the person's business premises. 2497

(b) An affiliate of a person that meets the requirements 2498  
in division (B) (18) (a) of this section if the affiliate meets 2499  
all of the following requirements: 2500

(i) The affiliate has operated a retail business for a 2501  
period of less than one year; 2502

(ii) The affiliate either displays goods and offers them 2503  
for retail sale at the affiliate's business premises or offers 2504  
services for sale and provides them at the affiliate's business 2505  
premises; 2506

(iii) At least fifty-one per cent of the affiliate's gross 2507  
dollar volume of retail sales involves purchases of goods or 2508  
services at the affiliate's business premises. 2509

(c) A person that, for a period of less than one year, has  
been operating a retail business in this state under the same  
name as that used in connection with telephone solicitation, as  
long as all of the following requirements are met:

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

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

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

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

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

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

(c) The person makes telephone solicitations on behalf of

only exempt persons, the person and each exempt person on whose behalf telephone solicitations are made have entered into a written contract that specifies the manner in which the telephone solicitations are to be conducted and that at a minimum requires compliance with the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310, and the person conducts the telephone solicitations in the manner specified in the written contract.

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

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

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

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

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

(21) (a) Either of the following:	2568
(i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.	2569 2570 2571 2572 2573
(ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. part 310, as adopted by the federal trade commission.	2574 2575 2576 2577 2578 2579 2580 2581 2582
(b) As used in division (B) (21) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.	2583 2584 2585 2586 2587
(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.	2588 2589 2590 2591 2592 2593
(23) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:	2594 2595 2596

(a) The solicitation and sale are conducted in compliance 2597  
with 16 C.F.R. part 453, as adopted by the federal trade 2598  
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 2599  
the Revised Code; 2600

(b) The person provides to the purchaser of any preneed 2601  
funeral contract a notice that clearly and conspicuously sets 2602  
forth the cancellation rights specified in division (G) of 2603  
section 1107.33 of the Revised Code, and retains a copy of the 2604  
notice signed by the purchaser. 2605

(24) A person, or affiliate thereof, licensed to sell or 2606  
issue Ohio instruments designated as travelers checks pursuant 2607  
to sections 1315.01 to 1315.18 of the Revised Code. 2608

(25) A person that solicits sales from its previous 2609  
purchasers and meets all of the following requirements: 2610

(a) The solicitation is made under the same business name 2611  
that was previously used to sell goods or services to the 2612  
purchaser; 2613

(b) The person has, for a period of not less than three 2614  
years, operated a business under the same business name as that 2615  
used in connection with telephone solicitation; 2616

(c) The person does not conduct a prize promotion or offer 2617  
the sale of an investment opportunity; 2618

(d) The person conducts all telephone solicitation 2619  
activities according to sections 310.3, 310.4, and 310.5 of the 2620  
telemarketing sales rules adopted by the federal trade 2621  
commission in 16 C.F.R. part 310; 2622

(e) Neither the person nor any of its principals has been 2623  
convicted of, pleaded guilty to, or has entered a plea of no 2624

contest for a felony or a theft offense as defined in sections 2625  
2901.02 and 2913.01 of the Revised Code or similar law of 2626  
another state or of the United States; 2627

(f) Neither the person nor any of its principals has had 2628  
entered against them an injunction or a final judgment or order, 2629  
including an agreed judgment or order, an assurance of voluntary 2630  
compliance, or any similar instrument, in any civil or 2631  
administrative action involving engaging in a pattern of corrupt 2632  
practices, fraud, theft, embezzlement, fraudulent conversion, or 2633  
misappropriation of property; the use of any untrue, deceptive, 2634  
or misleading representation; or the use of any unfair, 2635  
unlawful, deceptive, or unconscionable trade act or practice. 2636

(26) An institution defined as a home health agency in 2637  
section 3701.881 of the Revised Code, that conducts all 2638  
telephone solicitation activities according to sections 310.3, 2639  
310.4, and 310.5 of the telemarketing sales rules adopted by the 2640  
federal trade commission in 16 C.F.R. part 310, and engages in 2641  
telephone solicitation only within the scope of the 2642  
institution's certification, accreditation, contract with the 2643  
department of aging, or status as a home health agency; and that 2644  
meets one of the following requirements: 2645

(a) The institution is certified as a provider of home 2646  
health services under Title XVIII of the Social Security Act, 49 2647  
Stat. 620, 42 U.S.C. 301, as amended; 2648

(b) The institution is accredited by either the joint 2649  
~~commission on accreditation of health care organizations~~ or the 2650  
community health accreditation program; 2651

(c) The institution is providing PASSPORT services under 2652  
the direction of the department of aging under sections 173.52 2653

to 173.523 of the Revised Code; 2654

(d) An affiliate of an institution that meets the 2655  
requirements of division (B) (26) (a), (b), or (c) of this section 2656  
when offering for sale substantially the same goods and services 2657  
as those that are offered by the institution that meets the 2658  
requirements of division (B) (26) (a), (b), or (c) of this 2659  
section. 2660

(27) A person licensed by the department of health 2661  
pursuant to section 3712.04~~or~~, 3712.041, or 3712.042 of the 2662  
Revised Code to provide a hospice care program or pediatric 2663  
respite care program, or to operate a palliative care facility, 2664  
when conducting telephone solicitations within the scope of the 2665  
person's license and according to sections 310.3, 310.4, and 2666  
310.5 of the telemarketing sales rules adopted by the federal 2667  
trade commission in 16 C.F.R. part 310. 2668

**Sec. 4723.36.** (A) A certified nurse practitioner or 2669  
clinical nurse specialist may determine and pronounce an 2670  
individual's death, but only if the individual's respiratory and 2671  
circulatory functions are not being artificially sustained and, 2672  
at the time the determination and pronouncement of death is 2673  
made, either or both of the following apply: 2674

(1) The individual was receiving care in one of the 2675  
following: 2676

(a) A nursing home licensed under section 3721.02 of the 2677  
Revised Code or by a political subdivision under section 3721.09 2678  
of the Revised Code; 2679

(b) A residential care facility or home for the aging 2680  
licensed under Chapter 3721. of the Revised Code; 2681

(c) A county home or district home operated pursuant to 2682

Chapter 5155. of the Revised Code;	2683
(d) A residential facility licensed under section 5123.19 of the Revised Code.	2684 2685
(2) The certified nurse practitioner or clinical nurse specialist is providing or supervising the individual's care <u>at</u> <u>a palliative care facility or</u> through a hospice care program licensed under Chapter 3712. of the Revised Code or any other entity that provides palliative care.	2686 2687 2688 2689 2690
(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 <u>at a palliative care facility licensed under</u> <u>section 3712.042 of the Revised Code, or</u> through a hospice care program licensed under <del>Chapter 3712.</del> <u>section 3712.04</u> of the Revised Code or any other entity that provides palliative care.	2691 2692 2693 2694 2695 2696 2697 2698 2699
(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:	2700 2701 2702 2703
(1) The nurse shall not complete any portion of the individual's death certificate.	2704 2705
(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	2706 2707 2708 2709 2710 2711

pronouncement of the individual's death. 2712

**Sec. 4723.481.** This section establishes standards and 2713  
conditions regarding the authority of a clinical nurse 2714  
specialist, certified nurse-midwife, or certified nurse 2715  
practitioner to prescribe drugs and therapeutic devices under a 2716  
certificate to prescribe issued under section 4723.48 of the 2717  
Revised Code. 2718

(A) A clinical nurse specialist, certified nurse-midwife, 2719  
or certified nurse practitioner shall not prescribe any drug or 2720  
therapeutic device that is not included in the types of drugs 2721  
and devices listed on the formulary established in rules adopted 2722  
under section 4723.50 of the Revised Code. 2723

(B) The prescriptive authority of a clinical nurse 2724  
specialist, certified nurse-midwife, or certified nurse 2725  
practitioner shall not exceed the prescriptive authority of the 2726  
collaborating physician or podiatrist, including the 2727  
collaborating physician's authority to treat chronic pain with 2728  
controlled substances and products containing tramadol as 2729  
described in section 4731.052 of the Revised Code. 2730

(C) (1) Except as provided in division (C) (2) or (3) of 2731  
this section, a clinical nurse specialist, certified nurse- 2732  
midwife, or certified nurse practitioner may prescribe to a 2733  
patient a schedule II controlled substance only if all of the 2734  
following are the case: 2735

(a) The patient has a terminal condition, as defined in 2736  
section 2133.01 of the Revised Code. 2737

(b) The collaborating physician of the clinical nurse 2738  
specialist, certified nurse-midwife, or certified nurse 2739  
practitioner initially prescribed the substance for the patient. 2740

(c) The prescription is for an amount that does not exceed 2741  
the amount necessary for the patient's use in a single, twenty- 2742  
four-hour period. 2743

(2) The restrictions on prescriptive authority in division 2744  
(C) (1) of this section do not apply if a clinical nurse 2745  
specialist, certified nurse-midwife, or certified nurse 2746  
practitioner issues the prescription to the patient from any of 2747  
the following locations: 2748

(a) A hospital registered under section 3701.07 of the 2749  
Revised Code; 2750

(b) An entity owned or controlled, in whole or in part, by 2751  
a hospital or by an entity that owns or controls, in whole or in 2752  
part, one or more hospitals; 2753

(c) A health care facility operated by the department of 2754  
mental health and addiction services or the department of 2755  
developmental disabilities; 2756

(d) A nursing home licensed under section 3721.02 of the 2757  
Revised Code or by a political subdivision certified under 2758  
section 3721.09 of the Revised Code; 2759

(e) A county home or district home operated under Chapter 2760  
5155. of the Revised Code that is certified under the medicare 2761  
or medicaid program; 2762

(f) A hospice care program or palliative care facility, as 2763  
defined in section 3712.01 of the Revised Code; 2764

(g) A community mental health services provider, as 2765  
defined in section 5122.01 of the Revised Code; 2766

(h) An ambulatory surgical facility, as defined in section 2767  
3702.30 of the Revised Code; 2768

(i) A freestanding birthing center, as defined in section 3702.141 of the Revised Code;	2769 2770
(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;	2771 2772
(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	2773 2774
(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	2775 2776 2777 2778
(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site.	2779 2780 2781 2782 2783 2784 2785 2786
(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C) (2) of this section.	2787 2788 2789 2790 2791
(D) A pharmacist who acts in good faith reliance on a prescription issued by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner under division (C) (2) of this section is not liable for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or	2792 2793 2794 2795 2796 2797

professional disciplinary action by the state board of pharmacy 2798  
under Chapter 4729. of the Revised Code. 2799

(E) A clinical nurse specialist, certified nurse-midwife, 2800  
or certified nurse practitioner may personally furnish to a 2801  
patient a sample of any drug or therapeutic device included in 2802  
the types of drugs and devices listed on the formulary, except 2803  
that all of the following conditions apply: 2804

(1) The amount of the sample furnished shall not exceed a 2805  
seventy-two-hour supply, except when the minimum available 2806  
quantity of the sample is packaged in an amount that is greater 2807  
than a seventy-two-hour supply, in which case the packaged 2808  
amount may be furnished. 2809

(2) No charge may be imposed for the sample or for 2810  
furnishing it. 2811

(3) Samples of controlled substances may not be personally 2812  
furnished. 2813

(F) A clinical nurse specialist, certified nurse-midwife, 2814  
or certified nurse practitioner may personally furnish to a 2815  
patient a complete or partial supply of a drug or therapeutic 2816  
device included in the types of drugs and devices listed on the 2817  
formulary, except that all of the following conditions apply: 2818

(1) The clinical nurse specialist, certified nurse- 2819  
midwife, or certified nurse practitioner shall personally 2820  
furnish only antibiotics, antifungals, scabicides, 2821  
contraceptives, prenatal vitamins, antihypertensives, drugs and 2822  
devices used in the treatment of diabetes, drugs and devices 2823  
used in the treatment of asthma, and drugs used in the treatment 2824  
of dyslipidemia. 2825

(2) The clinical nurse specialist, certified nurse- 2826

midwife, or certified nurse practitioner shall not furnish the 2827  
drugs and devices in locations other than a health department 2828  
operated by the board of health of a city or general health 2829  
district or the authority having the duties of a board of health 2830  
under section 3709.05 of the Revised Code, a federally funded 2831  
comprehensive primary care clinic, or a nonprofit health care 2832  
clinic or program. 2833

(3) The clinical nurse specialist, certified nurse- 2834  
midwife, or certified nurse practitioner shall comply with all 2835  
safety standards for personally furnishing supplies of drugs and 2836  
devices, as established in rules adopted under section 4723.50 2837  
of the Revised Code. 2838

(G) A clinical nurse specialist, certified nurse-midwife, 2839  
or certified nurse practitioner shall comply with section 2840  
3719.061 of the Revised Code if the nurse prescribes for a 2841  
minor, as defined in that section, an opioid analgesic, as 2842  
defined in section 3719.01 of the Revised Code. 2843

**Sec. 4723.487.** (A) As used in this section: 2844

(1) "Drug database" means the database established and 2845  
maintained by the state board of pharmacy pursuant to section 2846  
4729.75 of the Revised Code. 2847

(2) "Opioid analgesic" and "benzodiazepine" have the same 2848  
meanings as in section 3719.01 of the Revised Code. 2849

(B) Except as provided in divisions (C) and (E) of this 2850  
section, an advanced practice registered nurse holding a 2851  
certificate to prescribe issued under this chapter shall comply 2852  
with all of the following as conditions of prescribing a drug 2853  
that is either an opioid analgesic or a benzodiazepine as part 2854  
of a patient's course of treatment for a particular condition: 2855

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

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

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

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

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

(2) The drug is prescribed in an amount indicated for a

period not to exceed seven days. 2885

(3) The drug is prescribed for the treatment of cancer or 2886  
another condition associated with cancer. 2887

(4) The drug is prescribed to a hospice patient in a 2888  
hospice care program or to a palliative care patient in a 2889  
palliative care facility, as those terms are defined in section 2890  
3712.01 of the Revised Code, or to any other patient diagnosed 2891  
as terminally ill. 2892

(5) The drug is prescribed for administration in a 2893  
hospital, nursing home, or residential care facility. 2894

(D) The board of nursing may adopt rules, in accordance 2895  
with Chapter 119. of the Revised Code, that establish standards 2896  
and procedures to be followed by an advanced practice registered 2897  
nurse with a certificate to prescribe issued under section 2898  
4723.48 of the Revised Code regarding the review of patient 2899  
information available through the drug database under division 2900  
(A) (5) of section 4729.80 of the Revised Code. The rules shall 2901  
be adopted in accordance with Chapter 119. of the Revised Code. 2902

(E) This section and any rules adopted under it do not 2903  
apply if the state board of pharmacy no longer maintains the 2904  
drug database. 2905

**Sec. 4729.43.** (A) As used in this section: 2906

(1) "Home health agency" has the same meaning as in 2907  
section 3701.881 of the Revised Code. 2908

(2) "Hospice care program," ~~and~~ "hospice patient," 2909  
"palliative care facility," and "palliative care patient" have 2910  
the same meanings as in section 3712.01 of the Revised Code. 2911

(B) With regard to a dangerous drug that is indicated for 2912

the treatment of cancer or a cancer-related illness, must be 2913  
administered intravenously or by subcutaneous injection, and 2914  
cannot reasonably be self-administered by the patient to whom 2915  
the drug is prescribed or by an individual assisting the patient 2916  
with the self-administration, a pharmacist or pharmacy intern 2917  
shall not dispense the drug by delivering the drug directly to 2918  
any of the following or causing the drug to be delivered 2919  
directly to any of the following: 2920

(1) The patient; 2921

(2) The patient's representative, which may include the 2922  
patient's guardian or a family member or friend of the patient; 2923

(3) The patient's private residence unless any of the 2924  
following is the case: 2925

(a) The patient's private residence is a nursing home, 2926  
residential care facility, rehabilitation facility, palliative 2927  
care facility, or similar institutional facility or health care 2928  
facility. 2929

(b) If the patient is an adult and a hospice patient or 2930  
client of a home health agency, the patient, the licensed health 2931  
professional authorized to prescribe drugs who prescribed the 2932  
drug to the patient, or an employee or agent of the prescriber 2933  
has notified the pharmacist or pharmacy intern that the patient 2934  
is a hospice patient or client of a home health agency and an 2935  
employee or agent of the hospice care program or home health 2936  
agency will be administering the drug to the patient. 2937

(c) If the patient is a minor and a hospice patient or 2938  
client of a home health agency, either of the following has 2939  
notified the pharmacist or pharmacy intern that the patient is a 2940  
client of a home health agency and an employee or agent of the 2941

hospice care program or home health agency will be administering 2942  
the drug to the patient: 2943

(i) The licensed health professional authorized to 2944  
prescribe drugs who prescribed the drug to the patient or an 2945  
employee or agent of the prescriber; 2946

(ii) The parent, guardian, or other person who has care or 2947  
charge of the patient and is authorized to consent to medical 2948  
treatment on behalf of the patient. 2949

**Sec. 4730.202.** (A) A physician assistant may determine and 2950  
pronounce an individual's death, but only if the individual's 2951  
respiratory and circulatory functions are not being artificially 2952  
sustained and, at the time the determination and pronouncement 2953  
of death is made, either or both of the following apply: 2954

(1) The individual was receiving care in one of the 2955  
following: 2956

(a) A nursing home licensed under section 3721.02 of the 2957  
Revised Code or by a political subdivision under section 3721.09 2958  
of the Revised Code; 2959

(b) A residential care facility or home for the aging 2960  
licensed under Chapter 3721. of the Revised Code; 2961

(c) A county home or district home operated pursuant to 2962  
Chapter 5155. of the Revised Code; 2963

(d) A residential facility licensed under section 5123.19 2964  
of the Revised Code; 2965

(e) A palliative care facility licensed under section 2966  
3712.042 of the Revised Code. 2967

(2) The physician assistant is providing or supervising 2968

the individual's care through a hospice care program licensed 2969  
under Chapter 3712. of the Revised Code or any other entity that 2970  
provides palliative care other than a palliative care facility. 2971

(B) If a physician assistant determines and pronounces an 2972  
individual's death, the physician assistant shall comply with 2973  
both of the following: 2974

(1) The physician assistant shall not complete any portion 2975  
of the individual's death certificate. 2976

(2) The physician assistant shall notify the individual's 2977  
attending physician of the determination and pronouncement of 2978  
death in order for the physician to fulfill the physician's 2979  
duties under section 3705.16 of the Revised Code. The physician 2980  
assistant shall provide the notification within a period of time 2981  
that is reasonable but not later than twenty-four hours 2982  
following the determination and pronouncement of the 2983  
individual's death. 2984

**Sec. 4730.411.** (A) Except as provided in division (B) or 2985  
(C) of this section, a physician assistant may prescribe to a 2986  
patient a schedule II controlled substance only if all of the 2987  
following are the case: 2988

(1) The patient is in a terminal condition, as defined in 2989  
section 2133.01 of the Revised Code. 2990

(2) The physician assistant's supervising physician 2991  
initially prescribed the substance for the patient. 2992

(3) The prescription is for an amount that does not exceed 2993  
the amount necessary for the patient's use in a single, twenty- 2994  
four-hour period. 2995

(B) The restrictions on prescriptive authority in division 2996

(A) of this section do not apply if a physician assistant issues the prescription to the patient from any of the following locations:	2997 2998 2999
(1) A hospital registered under section 3701.07 of the Revised Code;	3000 3001
(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;	3002 3003 3004
(3) A health care facility operated by the department of mental health and addiction services or the department of developmental disabilities;	3005 3006 3007
(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;	3008 3009 3010
(5) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;	3011 3012 3013
(6) A hospice care program <u>or palliative care facility</u> , as defined in section 3712.01 of the Revised Code;	3014 3015
(7) A community mental health services provider, as defined in section 5122.01 of the Revised Code;	3016 3017
(8) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;	3018 3019
(9) A freestanding birthing center, as defined in section 3702.141 of the Revised Code;	3020 3021
(10) A federally qualified health center, as defined in section 3701.047 of the Revised Code;	3022 3023

(11) A federally qualified health center look-alike, as 3024  
defined in section 3701.047 of the Revised Code; 3025

(12) A health care office or facility operated by the 3026  
board of health of a city or general health district or the 3027  
authority having the duties of a board of health under section 3028  
3709.05 of the Revised Code; 3029

(13) A site where a medical practice is operated, but only 3030  
if the practice is comprised of one or more physicians who also 3031  
are owners of the practice; the practice is organized to provide 3032  
direct patient care; and the physician assistant has entered 3033  
into a supervisory agreement with at least one of the physician 3034  
owners who practices primarily at that site. 3035

(C) A physician assistant shall not issue to a patient a 3036  
prescription for a schedule II controlled substance from a 3037  
convenience care clinic even if the convenience care clinic is 3038  
owned or operated by an entity specified in division (B) of this 3039  
section. 3040

(D) A pharmacist who acts in good faith reliance on a 3041  
prescription issued by a physician assistant under division (B) 3042  
of this section is not liable for or subject to any of the 3043  
following for relying on the prescription: damages in any civil 3044  
action, prosecution in any criminal proceeding, or professional 3045  
disciplinary action by the state board of pharmacy under Chapter 3046  
4729. of the Revised Code. 3047

**Sec. 4730.53.** (A) As used in this section: 3048

(1) "Drug database" means the database established and 3049  
maintained by the state board of pharmacy pursuant to section 3050  
4729.75 of the Revised Code. 3051

(2) "Opioid analgesic" and "benzodiazepine" have the same 3052

meanings as in section 3719.01 of the Revised Code. 3053

(B) Except as provided in divisions (C) and (E) of this 3054  
section, a physician assistant licensed under this chapter who 3055  
has been granted physician-delegated prescriptive authority 3056  
shall comply with all of the following as conditions of 3057  
prescribing a drug that is either an opioid analgesic or a 3058  
benzodiazepine as part of a patient's course of treatment for a 3059  
particular condition: 3060

(1) Before initially prescribing the drug, the physician 3061  
assistant or the physician assistant's delegate shall request 3062  
from the drug database a report of information related to the 3063  
patient that covers at least the twelve months immediately 3064  
preceding the date of the request. If the physician assistant 3065  
practices primarily in a county of this state that adjoins 3066  
another state, the physician assistant or delegate also shall 3067  
request a report of any information available in the drug 3068  
database that pertains to prescriptions issued or drugs 3069  
furnished to the patient in the state adjoining that county. 3070

(2) If the patient's course of treatment for the condition 3071  
continues for more than ninety days after the initial report is 3072  
requested, the physician assistant or delegate shall make 3073  
periodic requests for reports of information from the drug 3074  
database until the course of treatment has ended. The requests 3075  
shall be made at intervals not exceeding ninety days, determined 3076  
according to the date the initial request was made. The request 3077  
shall be made in the same manner provided in division (B)(1) of 3078  
this section for requesting the initial report of information 3079  
from the drug database. 3080

(3) On receipt of a report under division (B)(1) or (2) of 3081  
this section, the physician assistant shall assess the 3082

information in the report. The physician assistant shall 3083  
document in the patient's record that the report was received 3084  
and the information was assessed. 3085

(C) Division (B) of this section does not apply in any of 3086  
the following circumstances: 3087

(1) A drug database report regarding the patient is not 3088  
available, in which case the physician assistant shall document 3089  
in the patient's record the reason that the report is not 3090  
available. 3091

(2) The drug is prescribed in an amount indicated for a 3092  
period not to exceed seven days. 3093

(3) The drug is prescribed for the treatment of cancer or 3094  
another condition associated with cancer. 3095

(4) The drug is prescribed to a hospice patient in a 3096  
hospice care program or to a palliative care patient in a 3097  
palliative care facility, as those terms are defined in section 3098  
3712.01 of the Revised Code, or to any other patient diagnosed 3099  
as terminally ill. 3100

(5) The drug is prescribed for administration in a 3101  
hospital, nursing home, or residential care facility. 3102

(D) The state medical board may adopt rules that establish 3103  
standards and procedures to be followed by a physician assistant 3104  
licensed under this chapter who has been granted physician- 3105  
delegated prescriptive authority regarding the review of patient 3106  
information available through the drug database under division 3107  
(A) (5) of section 4729.80 of the Revised Code. The rules shall 3108  
be adopted in accordance with Chapter 119. of the Revised Code. 3109

(E) This section and any rules adopted under it do not 3110

apply if the state board of pharmacy no longer maintains the 3111  
drug database. 3112

**Sec. 4731.055.** (A) As used in this section: 3113

(1) "Drug database" means the database established and 3114  
maintained by the state board of pharmacy pursuant to section 3115  
4729.75 of the Revised Code. 3116

(2) "Physician" means an individual authorized under this 3117  
chapter to practice medicine and surgery, osteopathic medicine 3118  
and surgery, or podiatric medicine and surgery. 3119

(3) "Opioid analgesic" and "benzodiazepine" have the same 3120  
meanings as in section 3719.01 of the Revised Code. 3121

(B) Except as provided in divisions (C) and (E) of this 3122  
section, a physician shall comply with all of the following as 3123  
conditions of prescribing a drug that is either an opioid 3124  
analgesic or a benzodiazepine, or personally furnishing a 3125  
complete or partial supply of such a drug, as part of a 3126  
patient's course of treatment for a particular condition: 3127

(1) Before initially prescribing or furnishing the drug, 3128  
the physician or the physician's delegate shall request from the 3129  
drug database a report of information related to the patient 3130  
that covers at least the twelve months immediately preceding the 3131  
date of the request. If the physician practices primarily in a 3132  
county of this state that adjoins another state, the physician 3133  
or delegate also shall request a report of any information 3134  
available in the drug database that pertains to prescriptions 3135  
issued or drugs furnished to the patient in the state adjoining 3136  
that county. 3137

(2) If the patient's course of treatment for the condition 3138  
continues for more than ninety days after the initial report is 3139

requested, the physician or delegate shall make periodic 3140  
requests for reports of information from the drug database until 3141  
the course of treatment has ended. The requests shall be made at 3142  
intervals not exceeding ninety days, determined according to the 3143  
date the initial request was made. The request shall be made in 3144  
the same manner provided in division (B)(1) of this section for 3145  
requesting the initial report of information from the drug 3146  
database. 3147

(3) On receipt of a report under division (B)(1) or (2) of 3148  
this section, the physician shall assess the information in the 3149  
report. The physician shall document in the patient's record 3150  
that the report was received and the information was assessed. 3151

(C) Division (B) of this section does not apply in any of 3152  
the following circumstances: 3153

(1) A drug database report regarding the patient is not 3154  
available, in which case the physician shall document in the 3155  
patient's record the reason that the report is not available. 3156

(2) The drug is prescribed or personally furnished in an 3157  
amount indicated for a period not to exceed seven days. 3158

(3) The drug is prescribed or personally furnished for the 3159  
treatment of cancer or another condition associated with cancer. 3160

(4) The drug is prescribed or personally furnished to a 3161  
hospice patient in a hospice care program or to a palliative 3162  
care patient in a palliative care facility, as those terms are 3163  
defined in section 3712.01 of the Revised Code, or to any other 3164  
patient diagnosed as terminally ill. 3165

(5) The drug is prescribed or personally furnished for 3166  
administration in a hospital, nursing home, or residential care 3167  
facility. 3168

(6) The drug is prescribed or personally furnished to 3169  
treat acute pain resulting from a surgical or other invasive 3170  
procedure or a delivery. 3171

(D) The state medical board may adopt rules that establish 3172  
standards and procedures to be followed by a physician regarding 3173  
the review of patient information available through the drug 3174  
database under division (A) (5) of section 4729.80 of the Revised 3175  
Code. The rules shall be adopted in accordance with Chapter 119. 3176  
of the Revised Code. 3177

(E) This section and any rules adopted under it do not 3178  
apply if the state board of pharmacy no longer maintains the 3179  
drug database. 3180

**Sec. 4731.228.** (A) As used in this section: 3181

(1) "Federally qualified health center" has the same 3182  
meaning as in section 3701.047 of the Revised Code. 3183

(2) "Federally qualified health center look-alike" has the 3184  
same meaning as in section 3701.047 of the Revised Code. 3185

(3) "Health care entity" means any of the following that 3186  
employs a physician to provide physician services: 3187

(a) A hospital registered with the department of health 3188  
under section 3701.07 of the Revised Code; 3189

(b) A corporation formed under division (B) of section 3190  
1701.03 of the Revised Code; 3191

(c) A corporation formed under Chapter 1702. of the 3192  
Revised Code; 3193

(d) A limited liability company formed under Chapter 1705. 3194  
of the Revised Code; 3195

(e) A health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code; 3196  
3197

(f) A partnership; 3198

(g) A professional association formed under Chapter 1785. of the Revised Code. 3199  
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(4) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery. 3201  
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3203

(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. 3204  
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(6) "Termination" means the end of a physician's employment with a health care entity for any reason. 3207  
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(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. 3209  
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(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. 3214  
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(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 3221  
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required by this section. 3224

(D) The notice provided under division (C) of this section 3225  
shall be provided not later than the date of termination or 3226  
thirty days after the health care entity has actual knowledge of 3227  
termination or resignation of the physician, whichever is later. 3228  
The notice shall be provided in accordance with rules adopted by 3229  
the state medical board under section 4731.05 of the Revised 3230  
Code. The notice shall include at least all of the following: 3231

(1) A notice to the patient that the physician will no 3232  
longer be practicing medicine as an employee of the health care 3233  
entity; 3234

(2) Except in situations in which the health care entity 3235  
has a good faith concern that the physician's conduct or the 3236  
medical care provided by the physician would jeopardize the 3237  
health and safety of patients, the physician's name and, if 3238  
known by the health care entity, information provided by the 3239  
physician that the patient may use to contact the physician; 3240

(3) The date on which the physician ceased or will cease 3241  
to practice as an employee of the health care entity; 3242

(4) Contact information for an alternative physician or 3243  
physicians employed by the health care entity or contact 3244  
information for a group practice that can provide care for the 3245  
patient; 3246

(5) Contact information that enables the patient to obtain 3247  
information on the patient's medical records. 3248

(E) The requirements of this section do not apply to any 3249  
of the following: 3250

(1) A physician rendering services to a patient on an 3251

episodic basis or in an emergency department or urgent care center, when it should not be reasonably expected that related medical services will be rendered by the physician to the patient in the future;

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

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

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

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

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

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

(2) The person holds a valid certificate of registration

issued under this chapter.	3281
(B) Division (A) of this section does not apply to any of the following:	3282 3283
(1) A health care practitioner, as defined in section 4769.01 of the Revised Code, who does not sell or rent home medical equipment;	3284 3285 3286
(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;	3287 3288 3289 3290
(3) A manufacturer or wholesale distributor of home medical equipment that does not sell directly to the public;	3291 3292
(4) A hospice care program <del> or</del> , <u>pediatric respite care</u> <u>program, or palliative care facility</u> , as defined by section 3712.01 of the Revised Code, that does not sell or rent home medical equipment;	3293 3294 3295 3296
(5) A home, as defined by section 3721.01 of the Revised Code;	3297 3298
(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;	3299 3300 3301 3302
(7) An individual who holds a current, valid license issued under Chapter 4741. of the Revised Code to practice veterinary medicine;	3303 3304 3305
(8) An individual who holds a current, valid license issued under Chapter 4779. of the Revised Code to practice orthotics, prosthetics, or pedorthics;	3306 3307 3308

(9) A pharmacy licensed under Chapter 4729. of the Revised Code that either does not sell or rent home medical equipment or receives total payments of less than ten thousand dollars per year from selling or renting home medical equipment;

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

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

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

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

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

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

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

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

(7) "Operator" means the person or persons, firm,

partnership, agency, governing body, association, corporation, 3337  
or other entity that is responsible for the administration and 3338  
management of a residential facility and that is the applicant 3339  
for a residential facility license. 3340

(8) "Personal care services" means services including, but 3341  
not limited to, the following: 3342

(a) Assisting residents with activities of daily living; 3343

(b) Assisting residents with self-administration of 3344  
medication in accordance with rules adopted under this section; 3345

(c) Preparing special diets, other than complex 3346  
therapeutic diets, for residents pursuant to the instructions of 3347  
a physician or a licensed dietitian, in accordance with rules 3348  
adopted under this section. 3349

"Personal care services" does not include "skilled nursing 3350  
care" as defined in section 3721.01 of the Revised Code. A 3351  
facility need not provide more than one of the services listed 3352  
in division (A) (8) of this section to be considered to be 3353  
providing personal care services. 3354

(9) "Room and board" means the provision of sleeping and 3355  
living space, meals or meal preparation, laundry services, 3356  
housekeeping services, or any combination thereof. 3357

(10) "Residential state supplement" means the program 3358  
administered under section 5119.41 of the Revised Code and 3359  
related provisions of the Administrative Code under which the 3360  
state supplements the supplemental security income payments 3361  
received by aged, blind, or disabled adults under Title XVI of 3362  
the Social Security Act. Residential state supplement payments 3363  
are used for the provision of accommodations, supervision, and 3364  
personal care services to supplemental security income 3365

recipients the department of mental health and addition services 3366  
determines are at risk of needing institutional care. 3367

(11) "Supervision" means any of the following: 3368

(a) Observing a resident to ensure the resident's health, 3369  
safety, and welfare while the resident engages in activities of 3370  
daily living or other activities; 3371

(b) Reminding a resident to perform or complete an 3372  
activity, such as reminding a resident to engage in personal 3373  
hygiene or other self-care activities; 3374

(c) Assisting a resident in making or keeping an 3375  
appointment. 3376

(12) "Unrelated" means that a resident is not related to 3377  
the owner or operator of a residential facility or to the 3378  
owner's or operator's spouse as a parent, grandparent, child, 3379  
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 3380  
uncle, or as the child of an aunt or uncle. 3381

(B) (1) A "residential facility" is a publicly or privately 3382  
operated home or facility that falls into one of the following 3383  
categories: 3384

(a) Class one facilities provide accommodations, 3385  
supervision, personal care services, and mental health services 3386  
for one or more unrelated adults with mental illness or one or 3387  
more unrelated children or adolescents with severe emotional 3388  
disturbances; 3389

(b) Class two facilities provide accommodations, 3390  
supervision, and personal care services to any of the following: 3391

(i) One or two unrelated persons with mental illness; 3392

(ii) One or two unrelated adults who are receiving residential state supplement payments;	3393 3394
(iii) Three to sixteen unrelated adults.	3395
(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.	3396 3397
(2) "Residential facility" does not include any of the following:	3398 3399
(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;	3400 3401 3402 3403 3404
(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;	3405 3406 3407
(c) An institution or association subject to certification under section 5103.03 of the Revised Code;	3408 3409
(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;	3410 3411 3412
(e) <u>A palliative care facility licensed under section 3712.042 of the Revised Code;</u>	3413 3414
<u>(f)</u> A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;	3415 3416
<del>(f)</del> <u>(g)</u> A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code;	3417 3418
<del>(g)</del> <u>(h)</u> Any facility that receives funding for operating	3419

costs from the development services agency under any program 3420  
established to provide emergency shelter housing or transitional 3421  
housing for the homeless; 3422

~~(h)~~ (i) A terminal care facility for the homeless that has 3423  
entered into an agreement with a hospice care program under 3424  
section 3712.07 of the Revised Code; 3425

~~(i)~~ (j) A facility approved by the veterans administration 3426  
under section 104(a) of the "Veterans Health Care Amendments of 3427  
1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used 3428  
exclusively for the placement and care of veterans; 3429

~~(j)~~ (k) The residence of a relative or guardian of a 3430  
person with mental illness. 3431

(C) Nothing in division (B) of this section shall be 3432  
construed to permit personal care services to be imposed on a 3433  
resident who is capable of performing the activity in question 3434  
without assistance. 3435

(D) Except in the case of a residential facility described 3436  
in division (B) (1) (a) of this section, members of the staff of a 3437  
residential facility shall not administer medication to the 3438  
facility's residents, but may do any of the following: 3439

(1) Remind a resident when to take medication and watch to 3440  
ensure that the resident follows the directions on the 3441  
container; 3442

(2) Assist a resident in the self-administration of 3443  
medication by taking the medication from the locked area where 3444  
it is stored, in accordance with rules adopted pursuant to this 3445  
section, and handing it to the resident. If the resident is 3446  
physically unable to open the container, a staff member may open 3447  
the container for the resident. 3448

(3) Assist a physically impaired but mentally alert 3449  
resident, such as a resident with arthritis, cerebral palsy, or 3450  
Parkinson's disease, in removing oral or topical medication from 3451  
containers and in consuming or applying the medication, upon 3452  
request by or with the consent of the resident. If a resident is 3453  
physically unable to place a dose of medicine to the resident's 3454  
mouth without spilling it, a staff member may place the dose in 3455  
a container and place the container to the mouth of the 3456  
resident. 3457

(E) (1) Except as provided in division (E) (2) of this 3458  
section, a person operating or seeking to operate a residential 3459  
facility shall apply for licensure of the facility to the 3460  
department of mental health and addiction services. The 3461  
application shall be submitted by the operator. When applying 3462  
for the license, the applicant shall pay to the department the 3463  
application fee specified in rules adopted under division (L) of 3464  
this section. The fee is nonrefundable. 3465

The department shall send a copy of an application to the 3466  
ADAMHS board serving the county in which the person operates or 3467  
seeks to operate the facility. The ADAMHS board shall review the 3468  
application and provide to the department any information about 3469  
the applicant or the facility that the board would like the 3470  
department to consider in reviewing the application. 3471

(2) A person may not apply for a license to operate a 3472  
residential facility if the person is or has been the owner, 3473  
operator, or manager of a residential facility for which a 3474  
license to operate was revoked or for which renewal of a license 3475  
was refused for any reason other than nonpayment of the license 3476  
renewal fee, unless both of the following conditions are met: 3477

(a) A period of not less than two years has elapsed since 3478

the date the director of mental health and addiction services 3479  
issued the order revoking or refusing to renew the facility's 3480  
license. 3481

(b) The director's revocation or refusal to renew the 3482  
license was not based on an act or omission at the facility that 3483  
violated a resident's right to be free from abuse, neglect, or 3484  
exploitation. 3485

(F) (1) The department of mental health and addiction 3486  
services shall inspect and license the operation of residential 3487  
facilities. The department shall consider the past record of the 3488  
facility and the applicant or licensee in arriving at its 3489  
licensure decision. 3490

The department may issue full, probationary, and interim 3491  
licenses. A full license shall expire up to three years after 3492  
the date of issuance, a probationary license shall expire in a 3493  
shorter period of time as specified in rules adopted by the 3494  
director of mental health and addiction services under division 3495  
(L) of this section, and an interim license shall expire ninety 3496  
days after the date of issuance. A license may be renewed in 3497  
accordance with rules adopted by the director under division (L) 3498  
of this section. The renewal application shall be submitted by 3499  
the operator. When applying for renewal of a license, the 3500  
applicant shall pay to the department the renewal fee specified 3501  
in rules adopted under division (L) of this section. The fee is 3502  
nonrefundable. 3503

(2) The department may issue an order suspending the 3504  
admission of residents to the facility or refuse to issue or 3505  
renew and may revoke a license if it finds any of the following: 3506

(a) The facility is not in compliance with rules adopted 3507

by the director pursuant to division (L) of this section; 3508

(b) Any facility operated by the applicant or licensee has 3509  
been cited for a pattern of serious noncompliance or repeated 3510  
violations of statutes or rules during the period of current or 3511  
previous licenses; 3512

(c) The applicant or licensee submits false or misleading 3513  
information as part of a license application, renewal, or 3514  
investigation. 3515

Proceedings initiated to deny applications for full or 3516  
probationary licenses or to revoke such licenses are governed by 3517  
Chapter 119. of the Revised Code. An order issued pursuant to 3518  
this division remains in effect during the pendency of those 3519  
proceedings. 3520

(G) The department may issue an interim license to operate 3521  
a residential facility if both of the following conditions are 3522  
met: 3523

(1) The department determines that the closing of or the 3524  
need to remove residents from another residential facility has 3525  
created an emergency situation requiring immediate removal of 3526  
residents and an insufficient number of licensed beds are 3527  
available. 3528

(2) The residential facility applying for an interim 3529  
license meets standards established for interim licenses in 3530  
rules adopted by the director under division (L) of this 3531  
section. 3532

An interim license shall be valid for ninety days and may 3533  
be renewed by the director no more than twice. Proceedings 3534  
initiated to deny applications for or to revoke interim licenses 3535  
under this division are not subject to Chapter 119. of the 3536

Revised Code. 3537

(H) (1) The department of mental health and addiction 3538  
services may conduct an inspection of a residential facility as 3539  
follows: 3540

(a) Prior to issuance of a license for the facility; 3541

(b) Prior to renewal of the license; 3542

(c) To determine whether the facility has completed a plan 3543  
of correction required pursuant to division (H) (2) of this 3544  
section and corrected deficiencies to the satisfaction of the 3545  
department and in compliance with this section and rules adopted 3546  
pursuant to it; 3547

(d) Upon complaint by any individual or agency; 3548

(e) At any time the director considers an inspection to be 3549  
necessary in order to determine whether the facility is in 3550  
compliance with this section and rules adopted pursuant to this 3551  
section. 3552

(2) In conducting inspections the department may conduct 3553  
an on-site examination and evaluation of the residential 3554  
facility and its personnel, activities, and services. The 3555  
department shall have access to examine and copy all records, 3556  
accounts, and any other documents relating to the operation of 3557  
the residential facility, including records pertaining to 3558  
residents, and shall have access to the facility in order to 3559  
conduct interviews with the operator, staff, and residents. 3560  
Following each inspection and review, the department shall 3561  
complete a report listing any deficiencies, and including, when 3562  
appropriate, a time table within which the operator shall 3563  
correct the deficiencies. The department may require the 3564  
operator to submit a plan of correction describing how the 3565

deficiencies will be corrected.	3566
(I) No person shall do any of the following:	3567
(1) Operate a residential facility unless the facility holds a valid license;	3568 3569
(2) Violate any of the conditions of licensure after having been granted a license;	3570 3571
(3) Interfere with a state or local official's inspection or investigation of a residential facility;	3572 3573
(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.	3574 3575
(J) The following may enter a residential facility at any time:	3576 3577
(1) Employees designated by the director of mental health and addiction services;	3578 3579
(2) Employees of an ADAMHS board under either of the following circumstances:	3580 3581
(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;	3582 3583 3584
(b) When authorized by section 340.05 of the Revised Code.	3585
(3) Employees of a community mental health services provider under either of the following circumstances:	3586 3587
(a) When the provider has a person receiving services residing in the facility;	3588 3589
(b) When the provider is acting as an agent of an ADAMHS board other than the board with which it is under contract.	3590 3591

(4) Representatives of the state long-term care ombudsman program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are recipients under the residential state supplement program.

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

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

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

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

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

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

(4) The fee to be paid when applying for a new residential facility license or renewing the license;	3621 3622
(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;	3623 3624 3625 3626 3627 3628
(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;	3629 3630 3631
(7) Measures to be taken by residential facilities relative to residents' medication;	3632 3633
(8) Requirements relating to preparation of special diets;	3634
(9) The maximum number of residents who may be served in a residential facility;	3635 3636
(10) The rights of residents of residential facilities and procedures to protect such rights;	3637 3638
(11) Standards and procedures under which the director may waive the requirements of any of the rules adopted.	3639 3640
(M) (1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.	3641 3642 3643 3644 3645 3646 3647 3648

(2) Any person who makes a complaint under division (M) (1) 3649  
of this section, or any person who participates in an 3650  
administrative or judicial proceeding resulting from such a 3651  
complaint, is immune from civil liability and is not subject to 3652  
criminal prosecution, other than for perjury, unless the person 3653  
has acted in bad faith or with malicious purpose. 3654

(N) (1) The director of mental health and addiction 3655  
services may petition the court of common pleas of the county in 3656  
which a residential facility is located for an order enjoining 3657  
any person from operating a residential facility without a 3658  
license or from operating a licensed facility when, in the 3659  
director's judgment, there is a present danger to the health or 3660  
safety of any of the occupants of the facility. The court shall 3661  
have jurisdiction to grant such injunctive relief upon a showing 3662  
that the respondent named in the petition is operating a 3663  
facility without a license or there is a present danger to the 3664  
health or safety of any residents of the facility. 3665

(2) When the court grants injunctive relief in the case of 3666  
a facility operating without a license, the court shall issue, 3667  
at a minimum, an order enjoining the facility from admitting new 3668  
residents to the facility and an order requiring the facility to 3669  
assist with the safe and orderly relocation of the facility's 3670  
residents. 3671

(3) If injunctive relief is granted against a facility for 3672  
operating without a license and the facility continues to 3673  
operate without a license, the director shall refer the case to 3674  
the attorney general for further action. 3675

(O) The director may fine a person for violating division 3676  
(I) of this section. The fine shall be five hundred dollars for 3677  
a first offense; for each subsequent offense, the fine shall be 3678

one thousand dollars. The director's actions in imposing a fine 3679  
shall be taken in accordance with Chapter 119. of the Revised 3680  
Code. 3681

**Section 2.** That existing sections 109.57, 140.01, 140.08, 3682  
1337.11, 2133.01, 2317.54, 3701.881, 3712.01, 3712.09, 3721.01, 3683  
3795.01, 3963.01, 4719.01, 4723.36, 4723.481, 4723.487, 4729.43, 3684  
4730.202, 4730.411, 4730.53, 4731.055, 4731.228, 4752.02, and 3685  
5119.34 of the Revised Code are hereby repealed. 3686

**Section 3.** Section 4730.53 of the Revised Code is 3687  
presented in this act as a composite of the section as amended 3688  
by S.B. 110 of the 131st General Assembly and H.B. 394 and S.B. 3689  
276 both of the 130th General Assembly. The General Assembly, 3690  
applying the principle stated in division (B) of section 1.52 of 3691  
the Revised Code that amendments are to be harmonized if 3692  
reasonably capable of simultaneous operation, finds that the 3693  
composite is the resulting version of the section in effect 3694  
prior to the effective date of the section as presented in this 3695  
act. 3696