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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

Senators Cafaro, Brown, Tavares

A BILL

To amend sections 109.57, 140.01, 140.08, 1337.11, 1
1739.05, 2133.01, 2317.54, 2929.14, 3701.881, 2
3712.01, 3712.09, 3721.01, 3795.01, 3795.03, 3
3963.01, 4719.01, 4723.36, 4723.481, 4723.487, 4
4729.43, 4730.202, 4730.411, 4730.53, 4731.055, 5
4731.228, 4752.02, and 5119.34 and to enact 6
sections 1751.84, 3712.032, 3712.042, 3712.052, 7
3712.063, 3727.70, 3727.71, 3727.72, 3727.73, 8
3727.74, 3727.75, 3727.76, 3727.77, 3727.78, 9
3727.79, 3923.84, and 3795.04 of the Revised 10
Code to establish requirements for the operation 11
of palliative care facilities and requirements 12
for hospital after-care and discharge planning, 13
to prohibit assisting suicide, to require 14
coverage for autism services, and to require the 15
development of recommendations concerning the 16
operation of memory care units. 17

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

Section 1. That sections 109.57, 140.01, 140.08, 1337.11, 18
1739.05, 2133.01, 2317.54, 2929.14, 3701.881, 3712.01, 3712.09, 19
3721.01, 3795.01, 3795.03, 3963.01, 4719.01, 4723.36, 4723.481, 20
4723.487, 4729.43, 4730.202, 4730.411, 4730.53, 4731.055, 21
4731.228, 4752.02, and 5119.34 be amended and sections 1751.84, 22
3712.032, 3712.042, 3712.052, 3712.063, 3727.70, 3727.71, 23
3727.72, 3727.73, 3727.74, 3727.75, 3727.76, 3727.77, 3727.78, 24
3727.79, 3923.84, and 3795.04 of the Revised Code be enacted to 25
read as follows: 26

Sec. 109.57. (A) (1) The superintendent of the bureau of 27
criminal identification and investigation shall procure from 28
wherever procurable and file for record photographs, pictures, 29
descriptions, fingerprints, measurements, and other information 30
that may be pertinent of all persons who have been convicted of 31
committing within this state a felony, any crime constituting a 32
misdemeanor on the first offense and a felony on subsequent 33
offenses, or any misdemeanor described in division (A) (1) (a), 34
(A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code, 35
of all children under eighteen years of age who have been 36
adjudicated delinquent children for committing within this state 37
an act that would be a felony or an offense of violence if 38
committed by an adult or who have been convicted of or pleaded 39
guilty to committing within this state a felony or an offense of 40
violence, and of all well-known and habitual criminals. The 41
person in charge of any county, multicounty, municipal, 42
municipal-county, or multicounty-municipal jail or workhouse, 43
community-based correctional facility, halfway house, 44
alternative residential facility, or state correctional 45
institution and the person in charge of any state institution 46
having custody of a person suspected of having committed a 47
felony, any crime constituting a misdemeanor on the first 48

offense and a felony on subsequent offenses, or any misdemeanor 49
described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of 50
section 109.572 of the Revised Code or having custody of a child 51
under eighteen years of age with respect to whom there is 52
probable cause to believe that the child may have committed an 53
act that would be a felony or an offense of violence if 54
committed by an adult shall furnish such material to the 55
superintendent of the bureau. Fingerprints, photographs, or 56
other descriptive information of a child who is under eighteen 57
years of age, has not been arrested or otherwise taken into 58
custody for committing an act that would be a felony or an 59
offense of violence who is not in any other category of child 60
specified in this division, if committed by an adult, has not 61
been adjudicated a delinquent child for committing an act that 62
would be a felony or an offense of violence if committed by an 63
adult, has not been convicted of or pleaded guilty to committing 64
a felony or an offense of violence, and is not a child with 65
respect to whom there is probable cause to believe that the 66
child may have committed an act that would be a felony or an 67
offense of violence if committed by an adult shall not be 68
procured by the superintendent or furnished by any person in 69
charge of any county, multicounty, municipal, municipal-county, 70
or multicounty-municipal jail or workhouse, community-based 71
correctional facility, halfway house, alternative residential 72
facility, or state correctional institution, except as 73
authorized in section 2151.313 of the Revised Code. 74

(2) Every clerk of a court of record in this state, other 75
than the supreme court or a court of appeals, shall send to the 76
superintendent of the bureau a weekly report containing a 77
summary of each case involving a felony, involving any crime 78
constituting a misdemeanor on the first offense and a felony on 79

subsequent offenses, involving a misdemeanor described in 80
division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 81
of the Revised Code, or involving an adjudication in a case in 82
which a child under eighteen years of age was alleged to be a 83
delinquent child for committing an act that would be a felony or 84
an offense of violence if committed by an adult. The clerk of 85
the court of common pleas shall include in the report and 86
summary the clerk sends under this division all information 87
described in divisions (A) (2) (a) to (f) of this section 88
regarding a case before the court of appeals that is served by 89
that clerk. The summary shall be written on the standard forms 90
furnished by the superintendent pursuant to division (B) of this 91
section and shall include the following information: 92

(a) The incident tracking number contained on the standard 93
forms furnished by the superintendent pursuant to division (B) 94
of this section; 95

(b) The style and number of the case; 96

(c) The date of arrest, offense, summons, or arraignment; 97

(d) The date that the person was convicted of or pleaded 98
guilty to the offense, adjudicated a delinquent child for 99
committing the act that would be a felony or an offense of 100
violence if committed by an adult, found not guilty of the 101
offense, or found not to be a delinquent child for committing an 102
act that would be a felony or an offense of violence if 103
committed by an adult, the date of an entry dismissing the 104
charge, an entry declaring a mistrial of the offense in which 105
the person is discharged, an entry finding that the person or 106
child is not competent to stand trial, or an entry of a nolle 107
prosequi, or the date of any other determination that 108
constitutes final resolution of the case; 109

(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;

(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.

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 is placed in the bureau's records.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-

county, or multicounty-municipal jail or workhouse, community- 140
based correctional facility, halfway house, alternative 141
residential facility, or state correctional institution or in 142
any facility for delinquent children for committing an act that 143
would be a felony or an offense of violence if committed by an 144
adult, and any other information that the superintendent may 145
receive from law enforcement officials of the state and its 146
political subdivisions. 147

(4) The superintendent shall carry out Chapter 2950. of 148
the Revised Code with respect to the registration of persons who 149
are convicted of or plead guilty to a sexually oriented offense 150
or a child-victim oriented offense and with respect to all other 151
duties imposed on the bureau under that chapter. 152

(5) The bureau shall perform centralized recordkeeping 153
functions for criminal history records and services in this 154
state for purposes of the national crime prevention and privacy 155
compact set forth in section 109.571 of the Revised Code and is 156
the criminal history record repository as defined in that 157
section for purposes of that compact. The superintendent or the 158
superintendent's designee is the compact officer for purposes of 159
that compact and shall carry out the responsibilities of the 160
compact officer specified in that compact. 161

(B) The superintendent shall prepare and furnish to every 162
county, multicounty, municipal, municipal-county, or 163
multicounty-municipal jail or workhouse, community-based 164
correctional facility, halfway house, alternative residential 165
facility, or state correctional institution and to every clerk 166
of a court in this state specified in division (A)(2) of this 167
section standard forms for reporting the information required 168
under division (A) of this section. The standard forms that the 169

superintendent prepares pursuant to this division may be in a 170
tangible format, in an electronic format, or in both tangible 171
formats and electronic formats. 172

(C) (1) The superintendent may operate a center for 173
electronic, automated, or other data processing for the storage 174
and retrieval of information, data, and statistics pertaining to 175
criminals and to children under eighteen years of age who are 176
adjudicated delinquent children for committing an act that would 177
be a felony or an offense of violence if committed by an adult, 178
criminal activity, crime prevention, law enforcement, and 179
criminal justice, and may establish and operate a statewide 180
communications network to be known as the Ohio law enforcement 181
gateway to gather and disseminate information, data, and 182
statistics for the use of law enforcement agencies and for other 183
uses specified in this division. The superintendent may gather, 184
store, retrieve, and disseminate information, data, and 185
statistics that pertain to children who are under eighteen years 186
of age and that are gathered pursuant to sections 109.57 to 187
109.61 of the Revised Code together with information, data, and 188
statistics that pertain to adults and that are gathered pursuant 189
to those sections. 190

(2) The superintendent or the superintendent's designee 191
shall gather information of the nature described in division (C) 192
(1) of this section that pertains to the offense and delinquency 193
history of a person who has been convicted of, pleaded guilty 194
to, or been adjudicated a delinquent child for committing a 195
sexually oriented offense or a child-victim oriented offense for 196
inclusion in the state registry of sex offenders and child- 197
victim offenders maintained pursuant to division (A) (1) of 198
section 2950.13 of the Revised Code and in the internet database 199
operated pursuant to division (A) (13) of that section and for 200

possible inclusion in the internet database operated pursuant to 201
division (A) (11) of that section. 202

(3) In addition to any other authorized use of 203
information, data, and statistics of the nature described in 204
division (C) (1) of this section, the superintendent or the 205
superintendent's designee may provide and exchange the 206
information, data, and statistics pursuant to the national crime 207
prevention and privacy compact as described in division (A) (5) 208
of this section. 209

(4) The Ohio law enforcement gateway shall contain the 210
name, confidential address, and telephone number of program 211
participants in the address confidentiality program established 212
under sections 111.41 to 111.47 of the Revised Code. 213

(5) The attorney general may adopt rules under Chapter 214
119. of the Revised Code establishing guidelines for the 215
operation of and participation in the Ohio law enforcement 216
gateway. The rules may include criteria for granting and 217
restricting access to information gathered and disseminated 218
through the Ohio law enforcement gateway. The attorney general 219
shall adopt rules under Chapter 119. of the Revised Code that 220
grant access to information in the gateway regarding an address 221
confidentiality program participant under sections 111.41 to 222
111.47 of the Revised Code to only chiefs of police, village 223
marshals, county sheriffs, county prosecuting attorneys, and a 224
designee of each of these individuals. The attorney general 225
shall permit the state medical board and board of nursing to 226
access and view, but not alter, information gathered and 227
disseminated through the Ohio law enforcement gateway. 228

The attorney general may appoint a steering committee to 229
advise the attorney general in the operation of the Ohio law 230

enforcement gateway that is comprised of persons who are 231
representatives of the criminal justice agencies in this state 232
that use the Ohio law enforcement gateway and is chaired by the 233
superintendent or the superintendent's designee. 234

(D) (1) The following are not public records under section 235
149.43 of the Revised Code: 236

(a) Information and materials furnished to the 237
superintendent pursuant to division (A) of this section; 238

(b) Information, data, and statistics gathered or 239
disseminated through the Ohio law enforcement gateway pursuant 240
to division (C) (1) of this section; 241

(c) Information and materials furnished to any board or 242
person under division (F) or (G) of this section. 243

(2) The superintendent or the superintendent's designee 244
shall gather and retain information so furnished under division 245
(A) of this section that pertains to the offense and delinquency 246
history of a person who has been convicted of, pleaded guilty 247
to, or been adjudicated a delinquent child for committing a 248
sexually oriented offense or a child-victim oriented offense for 249
the purposes described in division (C) (2) of this section. 250

(E) (1) The attorney general shall adopt rules, in 251
accordance with Chapter 119. of the Revised Code and subject to 252
division (E) (2) of this section, setting forth the procedure by 253
which a person may receive or release information gathered by 254
the superintendent pursuant to division (A) of this section. A 255
reasonable fee may be charged for this service. If a temporary 256
employment service submits a request for a determination of 257
whether a person the service plans to refer to an employment 258
position has been convicted of or pleaded guilty to an offense 259

listed or described in division (A) (1), (2), or (3) of section 260
109.572 of the Revised Code, the request shall be treated as a 261
single request and only one fee shall be charged. 262

(2) Except as otherwise provided in this division or 263
division (E) (3) or (4) of this section, a rule adopted under 264
division (E) (1) of this section may provide only for the release 265
of information gathered pursuant to division (A) of this section 266
that relates to the conviction of a person, or a person's plea 267
of guilty to, a criminal offense or to the arrest of a person as 268
provided in division (E) (3) of this section. The superintendent 269
shall not release, and the attorney general shall not adopt any 270
rule under division (E) (1) of this section that permits the 271
release of, any information gathered pursuant to division (A) of 272
this section that relates to an adjudication of a child as a 273
delinquent child, or that relates to a criminal conviction of a 274
person under eighteen years of age if the person's case was 275
transferred back to a juvenile court under division (B) (2) or 276
(3) of section 2152.121 of the Revised Code and the juvenile 277
court imposed a disposition or serious youthful offender 278
disposition upon the person under either division, unless either 279
of the following applies with respect to the adjudication or 280
conviction: 281

(a) The adjudication or conviction was for a violation of 282
section 2903.01 or 2903.02 of the Revised Code. 283

(b) The adjudication or conviction was for a sexually 284
oriented offense, the juvenile court was required to classify 285
the child a juvenile offender registrant for that offense under 286
section 2152.82, 2152.83, or 2152.86 of the Revised Code, that 287
classification has not been removed, and the records of the 288
adjudication or conviction have not been sealed or expunged 289

pursuant to sections 2151.355 to 2151.358 or sealed pursuant to	290
section 2952.32 of the Revised Code.	291
(3) A rule adopted under division (E) (1) of this section	292
may provide for the release of information gathered pursuant to	293
division (A) of this section that relates to the arrest of a	294
person who is eighteen years of age or older when the person has	295
not been convicted as a result of that arrest if any of the	296
following applies:	297
(a) The arrest was made outside of this state.	298
(b) A criminal action resulting from the arrest is	299
pending, and the superintendent confirms that the criminal	300
action has not been resolved at the time the criminal records	301
check is performed.	302
(c) The bureau cannot reasonably determine whether a	303
criminal action resulting from the arrest is pending, and not	304
more than one year has elapsed since the date of the arrest.	305
(4) A rule adopted under division (E) (1) of this section	306
may provide for the release of information gathered pursuant to	307
division (A) of this section that relates to an adjudication of	308
a child as a delinquent child if not more than five years have	309
elapsed since the date of the adjudication, the adjudication was	310
for an act that would have been a felony if committed by an	311
adult, the records of the adjudication have not been sealed or	312
expunged pursuant to sections 2151.355 to 2151.358 of the	313
Revised Code, and the request for information is made under	314
division (F) of this section or under section 109.572 of the	315
Revised Code. In the case of an adjudication for a violation of	316
the terms of community control or supervised release, the five-	317
year period shall be calculated from the date of the	318

adjudication to which the community control or supervised 319
release pertains. 320

(F) (1) As used in division (F) (2) of this section, "head 321
start agency" means an entity in this state that has been 322
approved to be an agency for purposes of subchapter II of the 323
"Community Economic Development Act," 95 Stat. 489 (1981), 42 324
U.S.C.A. 9831, as amended. 325

(2) (a) In addition to or in conjunction with any request 326
that is required to be made under section 109.572, 2151.86, 327
3301.32, 3301.541, division (C) of section 3310.58, or section 328
3319.39, 3319.391, 3327.10, 3701.881, 5104.013, 5123.081, or 329
5153.111 of the Revised Code or that is made under section 330
3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the 331
board of education of any school district; the director of 332
developmental disabilities; any county board of developmental 333
disabilities; any provider or subcontractor as defined in 334
section 5123.081 of the Revised Code; the chief administrator of 335
any chartered nonpublic school; the chief administrator of a 336
registered private provider that is not also a chartered 337
nonpublic school; the chief administrator of any home health 338
agency; the chief administrator of or person operating any child 339
day-care center, type A family day-care home, or type B family 340
day-care home licensed under Chapter 5104. of the Revised Code; 341
the chief administrator of any head start agency; the executive 342
director of a public children services agency; a private company 343
described in section 3314.41, 3319.392, 3326.25, or 3328.20 of 344
the Revised Code; or an employer described in division (J) (2) of 345
section 3327.10 of the Revised Code may request that the 346
superintendent of the bureau investigate and determine, with 347
respect to any individual who has applied for employment in any 348
position after October 2, 1989, or any individual wishing to 349

apply for employment with a board of education may request, with 350
regard to the individual, whether the bureau has any information 351
gathered under division (A) of this section that pertains to 352
that individual. On receipt of the request, subject to division 353
(E) (2) of this section, the superintendent shall determine 354
whether that information exists and, upon request of the person, 355
board, or entity requesting information, also shall request from 356
the federal bureau of investigation any criminal records it has 357
pertaining to that individual. The superintendent or the 358
superintendent's designee also may request criminal history 359
records from other states or the federal government pursuant to 360
the national crime prevention and privacy compact set forth in 361
section 109.571 of the Revised Code. Within thirty days of the 362
date that the superintendent receives a request, subject to 363
division (E) (2) of this section, the superintendent shall send 364
to the board, entity, or person a report of any information that 365
the superintendent determines exists, including information 366
contained in records that have been sealed under section 2953.32 367
of the Revised Code, and, within thirty days of its receipt, 368
subject to division (E) (2) of this section, shall send the 369
board, entity, or person a report of any information received 370
from the federal bureau of investigation, other than information 371
the dissemination of which is prohibited by federal law. 372

(b) When a board of education or a registered private 373
provider is required to receive information under this section 374
as a prerequisite to employment of an individual pursuant to 375
division (C) of section 3310.58 or section 3319.39 of the 376
Revised Code, it may accept a certified copy of records that 377
were issued by the bureau of criminal identification and 378
investigation and that are presented by an individual applying 379
for employment with the district in lieu of requesting that 380

information itself. In such a case, the board shall accept the 381
certified copy issued by the bureau in order to make a photocopy 382
of it for that individual's employment application documents and 383
shall return the certified copy to the individual. In a case of 384
that nature, a district or provider only shall accept a 385
certified copy of records of that nature within one year after 386
the date of their issuance by the bureau. 387

(c) Notwithstanding division (F) (2) (a) of this section, in 388
the case of a request under section 3319.39, 3319.391, or 389
3327.10 of the Revised Code only for criminal records maintained 390
by the federal bureau of investigation, the superintendent shall 391
not determine whether any information gathered under division 392
(A) of this section exists on the person for whom the request is 393
made. 394

(3) The state board of education may request, with respect 395
to any individual who has applied for employment after October 396
2, 1989, in any position with the state board or the department 397
of education, any information that a school district board of 398
education is authorized to request under division (F) (2) of this 399
section, and the superintendent of the bureau shall proceed as 400
if the request has been received from a school district board of 401
education under division (F) (2) of this section. 402

(4) When the superintendent of the bureau receives a 403
request for information under section 3319.291 of the Revised 404
Code, the superintendent shall proceed as if the request has 405
been received from a school district board of education and 406
shall comply with divisions (F) (2) (a) and (c) of this section. 407

(5) When a recipient of a classroom reading improvement 408
grant paid under section 3301.86 of the Revised Code requests, 409
with respect to any individual who applies to participate in 410

providing any program or service funded in whole or in part by 411
the grant, the information that a school district board of 412
education is authorized to request under division (F) (2) (a) of 413
this section, the superintendent of the bureau shall proceed as 414
if the request has been received from a school district board of 415
education under division (F) (2) (a) of this section. 416

(G) In addition to or in conjunction with any request that 417
is required to be made under section 3701.881, 3712.09, or 418
3721.121 of the Revised Code with respect to an individual who 419
has applied for employment in a position that involves providing 420
direct care to an older adult or adult resident, the chief 421
administrator of a home health agency, hospice care program, 422
home licensed under Chapter 3721. of the Revised Code, or adult 423
day-care program operated pursuant to rules adopted under 424
section 3721.04 of the Revised Code may request that the 425
superintendent of the bureau investigate and determine, with 426
respect to any individual who has applied after January 27, 427
1997, for employment in a position that does not involve 428
providing direct care to an older adult or adult resident, 429
whether the bureau has any information gathered under division 430
(A) of this section that pertains to that individual. 431

In addition to or in conjunction with any request that is 432
required to be made under section 173.27 of the Revised Code 433
with respect to an individual who has applied for employment in 434
a position that involves providing ombudsman services to 435
residents of long-term care facilities or recipients of 436
community-based long-term care services, the state long-term 437
care ombudsman, the director of aging, a regional long-term care 438
ombudsman program, or the designee of the ombudsman, director, 439
or program may request that the superintendent investigate and 440
determine, with respect to any individual who has applied for 441

employment in a position that does not involve providing such 442
ombudsman services, whether the bureau has any information 443
gathered under division (A) of this section that pertains to 444
that applicant. 445

In addition to or in conjunction with any request that is 446
required to be made under section 173.38 of the Revised Code 447
with respect to an individual who has applied for employment in 448
a direct-care position, the chief administrator of a provider, 449
as defined in section 173.39 of the Revised Code, may request 450
that the superintendent investigate and determine, with respect 451
to any individual who has applied for employment in a position 452
that is not a direct-care position, whether the bureau has any 453
information gathered under division (A) of this section that 454
pertains to that applicant. 455

In addition to or in conjunction with any request that is 456
required to be made under section 3712.09 of the Revised Code 457
with respect to an individual who has applied for employment in 458
a position that involves providing direct care to a pediatric 459
respite care patient or palliative care patient, the chief 460
administrator of a pediatric respite care program or palliative 461
care facility may request that the superintendent of the bureau 462
investigate and determine, with respect to any individual who 463
has applied for employment in a position that does not involve 464
providing direct care to a pediatric respite care patient, 465
whether the bureau has any information gathered under division 466
(A) of this section that pertains to that individual. 467

On receipt of a request under this division, the 468
superintendent shall determine whether that information exists 469
and, on request of the individual requesting information, shall 470
also request from the federal bureau of investigation any 471

criminal records it has pertaining to the applicant. The 472
superintendent or the superintendent's designee also may request 473
criminal history records from other states or the federal 474
government pursuant to the national crime prevention and privacy 475
compact set forth in section 109.571 of the Revised Code. Within 476
thirty days of the date a request is received, subject to 477
division (E) (2) of this section, the superintendent shall send 478
to the requester a report of any information determined to 479
exist, including information contained in records that have been 480
sealed under section 2953.32 of the Revised Code, and, within 481
thirty days of its receipt, shall send the requester a report of 482
any information received from the federal bureau of 483
investigation, other than information the dissemination of which 484
is prohibited by federal law. 485

(H) Information obtained by a government entity or person 486
under this section is confidential and shall not be released or 487
disseminated. 488

(I) The superintendent may charge a reasonable fee for 489
providing information or criminal records under division (F) (2) 490
or (G) of this section. 491

(J) As used in this section: 492

(1) "~~Pediatric Palliative care facility,~~" "palliative care 493
patient," "pediatric respite care patient," and "pediatric 494
respite care program" and "~~pediatric care patient~~" have the same 495
meanings as in section 3712.01 of the Revised Code. 496

(2) "Sexually oriented offense" and "child-victim oriented 497
offense" have the same meanings as in section 2950.01 of the 498
Revised Code. 499

(3) "Registered private provider" means a nonpublic school 500

or entity registered with the superintendent of public 501
instruction under section 3310.41 of the Revised Code to 502
participate in the autism scholarship program or section 3310.58 503
of the Revised Code to participate in the Jon Peterson special 504
needs scholarship program. 505

Sec. 140.01. As used in this chapter: 506

(A) "Hospital agency" means any public hospital agency or 507
any nonprofit hospital agency. 508

(B) "Public hospital agency" means any county, board of 509
county hospital trustees established pursuant to section 339.02 510
of the Revised Code, county hospital commission established 511
pursuant to section 339.14 of the Revised Code, municipal 512
corporation, new community authority organized under Chapter 513
349. of the Revised Code, joint township hospital district, 514
state or municipal university or college operating or authorized 515
to operate a hospital facility, or the state. 516

(C) "Nonprofit hospital agency" means a corporation or 517
association not for profit, no part of the net earnings of which 518
inures or may lawfully inure to the benefit of any private 519
shareholder or individual, that has authority to own or operate 520
a hospital facility or provides or is to provide services to one 521
or more other hospital agencies. 522

(D) "Governing body" means, in the case of a county, the 523
board of county commissioners or other legislative body; in the 524
case of a board of county hospital trustees, the board; in the 525
case of a county hospital commission, the commission; in the 526
case of a municipal corporation, the council or other 527
legislative authority; in the case of a new community authority, 528
its board of trustees; in the case of a joint township hospital 529

district, the joint township district hospital board; in the 530
case of a state or municipal university or college, its board of 531
trustees or board of directors; in the case of a nonprofit 532
hospital agency, the board of trustees or other body having 533
general management of the agency; and, in the case of the state, 534
the director of development services or the Ohio higher 535
educational facility commission. 536

(E) "Hospital facilities" means buildings, structures and 537
other improvements, additions thereto and extensions thereof, 538
furnishings, equipment, and real estate and interests in real 539
estate, used or to be used for or in connection with one or more 540
hospitals, emergency, intensive, intermediate, extended, long- 541
term, or self-care facilities, diagnostic and treatment and out- 542
patient facilities, facilities related to programs for home 543
health services, clinics, laboratories, public health centers, 544
research facilities, and rehabilitation facilities, for or 545
pertaining to diagnosis, treatment, care, or rehabilitation of 546
sick, ill, injured, infirm, impaired, disabled, or handicapped 547
persons, or the prevention, detection, and control of disease, 548
and also includes education, training, and food service 549
facilities for health professions personnel, housing facilities 550
for such personnel and their families, and parking and service 551
facilities in connection with any of the foregoing; and includes 552
any one, part of, or any combination of the foregoing; and 553
further includes site improvements, utilities, machinery, 554
facilities, furnishings, and any separate or connected 555
buildings, structures, improvements, sites, utilities, 556
facilities, or equipment to be used in, or in connection with 557
the operation or maintenance of, or supplementing or otherwise 558
related to the services or facilities to be provided by, any one 559
or more of such hospital facilities. 560

(F) "Costs of hospital facilities" means the costs of 561
acquiring hospital facilities or interests in hospital 562
facilities, including membership interests in nonprofit hospital 563
agencies, costs of constructing hospital facilities, costs of 564
improving one or more hospital facilities, including 565
reconstructing, rehabilitating, remodeling, renovating, and 566
enlarging, costs of equipping and furnishing such facilities, 567
and all financing costs pertaining thereto, including, without 568
limitation thereto, costs of engineering, architectural, and 569
other professional services, designs, plans, specifications and 570
surveys, and estimates of cost, costs of tests and inspections, 571
the costs of any indemnity or surety bonds and premiums on 572
insurance, all related direct or allocable administrative 573
expenses pertaining thereto, fees and expenses of trustees, 574
depositories, and paying agents for the obligations, cost of 575
issuance of the obligations and financing charges and fees and 576
expenses of financial advisors, attorneys, accountants, 577
consultants and rating services in connection therewith, 578
capitalized interest on the obligations, amounts necessary to 579
establish reserves as required by the bond proceedings, the 580
reimbursement of all moneys advanced or applied by the hospital 581
agency or others or borrowed from others for the payment of any 582
item or items of costs of such facilities, and all other 583
expenses necessary or incident to planning or determining 584
feasibility or practicability with respect to such facilities, 585
and such other expenses as may be necessary or incident to the 586
acquisition, construction, reconstruction, rehabilitation, 587
remodeling, renovation, enlargement, improvement, equipment, and 588
furnishing of such facilities, the financing thereof, and the 589
placing of the same in use and operation, including any one, 590
part of, or combination of such classes of costs and expenses, 591
and means the costs of refinancing obligations issued by, or 592

reimbursement of money advanced by, nonprofit hospital agencies 593
or others the proceeds of which were used for the payment of 594
costs of hospital facilities, if the governing body of the 595
public hospital agency determines that the refinancing or 596
reimbursement advances the purposes of this chapter, whether or 597
not the refinancing or reimbursement is in conjunction with the 598
acquisition or construction of additional hospital facilities. 599

(G) "Hospital receipts" means all moneys received by or on 600
behalf of a hospital agency from or in connection with the 601
ownership, operation, acquisition, construction, improvement, 602
equipping, or financing of any hospital facilities, including, 603
without limitation thereto, any rentals and other moneys 604
received from the lease, sale, or other disposition of hospital 605
facilities, and any gifts, grants, interest subsidies, or other 606
moneys received under any federal program for assistance in 607
financing the costs of hospital facilities, and any other gifts, 608
grants, and donations, and receipts therefrom, available for 609
financing the costs of hospital facilities. 610

(H) "Obligations" means bonds, notes, or other evidences 611
of indebtedness or obligation, including interest coupons 612
pertaining thereto, issued or issuable by a public hospital 613
agency to pay costs of hospital facilities. 614

(I) "Bond service charges" means principal, interest, and 615
call premium, if any, required to be paid on obligations. 616

(J) "Bond proceedings" means one or more ordinances, 617
resolutions, trust agreements, indentures, and other agreements 618
or documents, and amendments and supplements to the foregoing, 619
or any combination thereof, authorizing or providing for the 620
terms, including any variable interest rates, and conditions 621
applicable to, or providing for the security of, obligations and 622

the provisions contained in such obligations. 623

(K) "Nursing home" has the same meaning as in division (A) 624
(1) of section 5701.13 of the Revised Code. 625

(L) "Residential care facility" has the same meaning as in 626
division (A) (2) of section 5701.13 of the Revised Code. 627

(M) "Independent living facility" means any self-care 628
facility or other housing facility designed or used as a 629
residence for elderly persons. An "independent living facility" 630
does not include a residential facility, or that part of a 631
residential facility, that is any of the following: 632

(1) A hospital required to be certified by section 3727.02 633
of the Revised Code; 634

(2) A nursing home or residential care facility; 635

(3) A facility operated by a hospice care program licensed 636
under section 3712.04 of the Revised Code and used for the 637
program's hospice patients; 638

(4) A palliative care facility licensed under section 639
3712.042 of the Revised Code; 640

(5) A residential facility licensed by the department of 641
mental health and addiction services under section 5119.34 of 642
the Revised Code that provides accommodations, supervision, and 643
personal care services for three to sixteen unrelated adults; 644

~~(5)~~ (6) A residential facility licensed by the department 645
of mental health and addiction services under section 5119.34 of 646
the Revised Code that is not a residential facility described in 647
division (M) (4) of this section; 648

~~(6)~~ (7) A facility licensed to provide methadone treatment 649

under section 5119.391 of the Revised Code; 650

~~(7)~~(8) A community addiction services provider, as 651
defined in section 5119.01 of the Revised Code; 652

~~(8)~~(9) A residential facility licensed under section 653
5123.19 of the Revised Code or a facility providing services 654
under a contract with the department of developmental 655
disabilities under section 5123.18 of the Revised Code; 656

~~(9)~~(10) A residential facility used as part of a hospital 657
to provide housing for staff of the hospital or students 658
pursuing a course of study at the hospital. 659

Sec. 140.08. (A) Except as otherwise provided in divisions 660
(B) (1) and (2) of this section, all hospital facilities 661
purchased, acquired, constructed, or owned by a public hospital 662
agency, or financed in whole or in part by obligations issued by 663
a public hospital agency, and used, or to be used when 664
completed, as hospital facilities, and the income therefrom, are 665
exempt from all taxation within this state, including ad valorem 666
and excise taxes, notwithstanding any other provisions of law, 667
and hospital agencies are exempt from taxes levied under 668
Chapters 5739. and 5741. of the Revised Code. The obligations 669
issued hereafter under section 133.08, 140.06, or 339.15 of the 670
Revised Code or Section 3 of Article XVIII, Ohio Constitution, 671
to pay costs of hospital facilities or to refund such 672
obligations, and the transfer thereof, and the interest and 673
other income from such obligations, including any profit made on 674
the sale thereof, is free from taxation within the state. 675

(B) (1) Division (A) of this section does not exempt 676
independent living facilities from taxes levied on property or 677
taxes levied under Chapters 5739. and 5741. of the Revised Code. 678

If an independent living facility or part of such facility 679
becomes on or after January 10, 1991, a nursing home, 680
residential care facility, or residential facility described in 681
division (M) ~~(4)~~ (5) of section 140.01 of the Revised Code, that 682
part of the independent living facility that is a nursing home, 683
residential care facility, or residential facility described in 684
division (M) ~~(4)~~ (5) of section 140.01 of the Revised Code is 685
exempt from taxation subject to division (B) (2) of this section 686
on and after the date it becomes a nursing home, residential 687
care facility, or residential facility described in division (M) 688
~~(4)~~ (5) of section 140.01 of the Revised Code. 689

(2) Division (A) of this section exempts nursing homes, 690
residential care facilities, and residential facilities 691
described in division (M) ~~(4)~~ (5) of section 140.01 of the 692
Revised Code from taxes levied on property and taxes levied 693
under Chapters 5739. and 5741. of the Revised Code only until 694
all obligations issued to finance such homes or facilities, or 695
all refunding or series of refundings of those obligations, are 696
redeemed or otherwise retired. 697

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of 698
the Revised Code: 699

(A) "Adult" means a person who is eighteen years of age or 700
older. 701

(B) "Attending physician" means the physician to whom a 702
principal or the family of a principal has assigned primary 703
responsibility for the treatment or care of the principal or, if 704
the responsibility has not been assigned, the physician who has 705
accepted that responsibility. 706

(C) "Comfort care" means any of the following: 707

(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;	708 709
(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;	710 711
(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.	712 713 714
(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.	715 716 717 718 719 720 721 722
(E) "Declaration for mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.	723 724
(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.	725 726 727
(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.	728 729 730
(H) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.	731 732 733
(I) "Health care facility" means any of the following:	734
(1) A hospital;	735

(2) A hospice care program, pediatric respite care	736
program, or other institution that specializes in comfort care	737
of patients in a terminal condition or in a permanently	738
unconscious state;	739
(3) <u>A palliative care facility;</u>	740
<u>(4) A nursing home;</u>	741
(4) <u>(5) A home health agency;</u>	742
(5) <u>(6) An intermediate care facility for individuals with</u>	743
intellectual disabilities;	744
(6) <u>(7) A regulated community mental health organization.</u>	745
(J) "Health care personnel" means physicians, nurses,	746
physician assistants, emergency medical technicians-basic,	747
emergency medical technicians-intermediate, emergency medical	748
technicians-paramedic, medical technicians, dietitians, other	749
authorized persons acting under the direction of an attending	750
physician, and administrators of health care facilities.	751
(K) "Home health agency" has the same meaning as in	752
section 3701.881 of the Revised Code.	753
(L) "Hospice care program," and "pediatric respite care	754
program," <u>and "palliative care facility"</u> have the same meanings	755
as in section 3712.01 of the Revised Code.	756
(M) "Hospital" has the same meanings as in sections	757
3701.01, 3727.01, and 5122.01 of the Revised Code.	758
(N) "Hydration" means fluids that are artificially or	759
technologically administered.	760
(O) "Incompetent" has the same meaning as in section	761
2111.01 of the Revised Code.	762

(P) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code. 763
764
765

(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. 766
767
768
769

(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code. 770
771

(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code. 772
773

(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code. 774
775

(U) "Nutrition" means sustenance that is artificially or technologically administered. 776
777

(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: 778
779
780
781
782
783

(1) Irreversible unawareness of one's being and environment. 784
785

(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering. 786
787
788

(W) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political 789
790

subdivisions and governmental agencies, boards, commissions, 791
departments, institutions, offices, and other instrumentalities. 792

(X) "Physician" means a person who is authorized under 793
Chapter 4731. of the Revised Code to practice medicine and 794
surgery or osteopathic medicine and surgery. 795

(Y) "Political subdivision" and "state" have the same 796
meanings as in section 2744.01 of the Revised Code. 797

(Z) "Professional disciplinary action" means action taken 798
by the board or other entity that regulates the professional 799
conduct of health care personnel, including the state medical 800
board and the board of nursing. 801

(AA) "Regulated community mental health organization" 802
means a residential facility as defined and licensed under 803
section 5119.34 of the Revised Code or a community mental health 804
services provider as defined in section 5122.01 of the Revised 805
Code. 806

(BB) "Terminal condition" means an irreversible, 807
incurable, and untreatable condition caused by disease, illness, 808
or injury from which, to a reasonable degree of medical 809
certainty as determined in accordance with reasonable medical 810
standards by a principal's attending physician and one other 811
physician who has examined the principal, both of the following 812
apply: 813

(1) There can be no recovery. 814

(2) Death is likely to occur within a relatively short 815
time if life-sustaining treatment is not administered. 816

(CC) "Tort action" means a civil action for damages for 817
injury, death, or loss to person or property, other than a civil 818

action for damages for a breach of contract or another agreement 819
between persons. 820

Sec. 1739.05. (A) A multiple employer welfare arrangement 821
that is created pursuant to sections 1739.01 to 1739.22 of the 822
Revised Code and that operates a group self-insurance program 823
may be established only if any of the following applies: 824

(1) The arrangement has and maintains a minimum enrollment 825
of three hundred employees of two or more employers. 826

(2) The arrangement has and maintains a minimum enrollment 827
of three hundred self-employed individuals. 828

(3) The arrangement has and maintains a minimum enrollment 829
of three hundred employees or self-employed individuals in any 830
combination of divisions (A) (1) and (2) of this section. 831

(B) A multiple employer welfare arrangement that is 832
created pursuant to sections 1739.01 to 1739.22 of the Revised 833
Code and that operates a group self-insurance program shall 834
comply with all laws applicable to self-funded programs in this 835
state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 836
3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 837
3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 838
3923.30, 3923.301, 3923.38, 3923.581, 3923.602, 3923.63, 839
3923.80, 3923.84, 3923.85, 3924.031, 3924.032, and 3924.27 of 840
the Revised Code. 841

(C) A multiple employer welfare arrangement created 842
pursuant to sections 1739.01 to 1739.22 of the Revised Code 843
shall solicit enrollments only through agents or solicitors 844
licensed pursuant to Chapter 3905. of the Revised Code to sell 845
or solicit sickness and accident insurance. 846

(D) A multiple employer welfare arrangement created 847

pursuant to sections 1739.01 to 1739.22 of the Revised Code 848
shall provide benefits only to individuals who are members, 849
employees of members, or the dependents of members or employees, 850
or are eligible for continuation of coverage under section 851
1751.53 or 3923.38 of the Revised Code or under Title X of the 852
"Consolidated Omnibus Budget Reconciliation Act of 1985," 100 853
Stat. 227, 29 U.S.C.A. 1161, as amended. 854

(E) A multiple employer welfare arrangement created 855
pursuant to sections 1739.01 to 1739.22 of the Revised Code is 856
subject to, and shall comply with, sections 3903.81 to 3903.93 857
of the Revised Code in the same manner as other life or health 858
insurers, as defined in section 3903.81 of the Revised Code. 859

Sec. 1751.84. (A) Notwithstanding section 3901.71 of the 860
Revised Code, each individual and group health insuring 861
corporation policy, contract, or agreement providing basic 862
health care services that is delivered, issued for delivery, or 863
renewed in this state shall provide coverage for the screening, 864
diagnosis, and treatment of autism spectrum disorder. A health 865
insuring corporation shall not terminate an individual's 866
coverage, or refuse to deliver, execute, issue, amend, adjust, 867
or renew coverage to an individual solely because the individual 868
is diagnosed with or has received treatment for an autism 869
spectrum disorder. Nothing in this section shall be applied to 870
nongrandfathered plans in the individual and small group markets 871
or to medicare supplement, accident-only, specified disease, 872
hospital indemnity, disability income, long-term care, or other 873
limited benefit hospital insurance policies. Except as otherwise 874
provided in division (B) of this section, coverage under this 875
section shall not be subject to dollar limits, deductibles, or 876
coinsurance provisions that are less favorable to an enrollee 877
than the dollar limits, deductibles, or coinsurance provisions 878

that apply to substantially all medical and surgical benefits 879
under the policy, contract, or agreement. 880

(B) Benefits provided under this section shall cover, at 881
minimum, all of the following: 882

(1) For speech and language therapy or occupational 883
therapy for an enrollee under the age of fourteen that is 884
performed by a licensed therapist, twenty visits per year for 885
each service; 886

(2) For clinical therapeutic intervention for an enrollee 887
under the age of fourteen that is provided by or under the 888
supervision of a professional who is licensed, certified, or 889
registered by an appropriate agency of this state to perform 890
such services in accordance with a health treatment plan, twenty 891
hours per week; 892

(3) For mental or behavioral outpatient services for an 893
enrollee under the age of fourteen that are performed by a 894
licensed psychologist, psychiatrist, or physician providing 895
consultation, assessment, development, or oversight of treatment 896
plans, thirty visits per year. 897

(C) (1) Except as provided in division (C) (2) of this 898
section, this section shall not be construed as limiting 899
benefits that are otherwise available to an individual under a 900
policy, contract, or agreement. 901

(2) A policy, contract, or agreement shall stipulate that 902
coverage provided under this section be contingent upon both of 903
the following: 904

(a) The covered individual receiving prior authorization 905
for the services in question; 906

(b) The services in question being prescribed or ordered 907
by either a developmental pediatrician or a psychologist trained 908
in autism. 909

(D) (1) Except for inpatient services, if an enrollee is 910
receiving treatment for an autism spectrum disorder, a health 911
insuring corporation may review the treatment plan annually, 912
unless the health insuring corporation and the enrollee's 913
treating physician or psychologist agree that a more frequent 914
review is necessary. 915

(2) Any such agreement as described in division (D) (1) of 916
this section shall apply only to a particular enrollee being 917
treated for an autism spectrum disorder and shall not apply to 918
all individuals being treated for autism spectrum disorder by a 919
physician or psychologist. 920

(3) The health insuring corporation shall cover the cost 921
of obtaining any review or treatment plan. 922

(E) This section shall not be construed as affecting any 923
obligation to provide services to an enrollee under an 924
individualized family service plan, an individualized education 925
program, or an individualized service plan. 926

(F) As used in this section: 927

(1) "Applied behavior analysis" means the design, 928
implementation, and evaluation of environmental modifications, 929
using behavioral stimuli and consequences, to produce socially 930
significant improvement in human behavior, including the use of 931
direct observation, measurement, and functional analysis of the 932
relationship between environment and behavior. 933

(2) "Autism spectrum disorder" means any of the pervasive 934
developmental disorders or autism spectrum disorder as defined 935

by the most recent edition of the diagnostic and statistical 936
manual of mental disorders published by the American psychiatric 937
association available at the time an individual is first 938
evaluated for suspected developmental delay. 939

(3) "Clinical therapeutic intervention" means therapies 940
supported by empirical evidence, which include, but are not 941
limited to, applied behavioral analysis, that satisfy both of 942
the following: 943

(a) Are necessary to develop, maintain, or restore, to the 944
maximum extent practicable, the function of an individual; 945

(b) Are provided by or under the supervision of any of the 946
following: 947

(i) A certified Ohio behavior analyst as defined in 948
section 4783.01 of the Revised Code; 949

(ii) An individual licensed under Chapter 4732. of the 950
Revised Code to practice psychology; 951

(iii) An individual licensed under Chapter 4757. of the 952
Revised Code to practice professional counseling, social work, 953
or marriage and family therapy. 954

(4) "Diagnosis of autism spectrum disorder" means 955
medically necessary assessment, evaluations, or tests to 956
diagnose whether an individual has an autism spectrum disorder. 957

(5) "Pharmacy care" means medications prescribed by a 958
licensed physician and any health-related services considered 959
medically necessary to determine the need or effectiveness of 960
the medications. 961

(6) "Psychiatric care" means direct or consultative 962
services provided by a psychiatrist licensed in the state in 963

which the psychiatrist practices. 964

(7) "Psychological care" means direct or consultative 965
services provided by a psychologist licensed in the state in 966
which the psychologist practices. 967

(8) "Therapeutic care" means services provided by a speech 968
therapist, occupational therapist, or physical therapist 969
licensed or certified in the state in which the person 970
practices. 971

(9) "Treatment for autism spectrum disorder" means 972
evidence-based care and related equipment prescribed or ordered 973
for an individual diagnosed with an autism spectrum disorder by 974
a licensed physician who is a developmental pediatrician or a 975
licensed psychologist trained in autism who determines the care 976
to be medically necessary, including any of the following: 977

(a) Clinical therapeutic intervention; 978

(b) Pharmacy care; 979

(c) Psychiatric care; 980

(d) Psychological care; 981

(e) Therapeutic care. 982

(G) If any provision of this section or the application 983
thereof to any person or circumstances is for any reason held to 984
be invalid, the remainder of the section and the application of 985
such remainder to other persons or circumstances shall not be 986
affected thereby. 987

Sec. 2133.01. Unless the context otherwise requires, as 988
used in sections 2133.01 to 2133.15 of the Revised Code: 989

(A) "Adult" means an individual who is eighteen years of 990

age or older. 991

(B) "Attending physician" means the physician to whom a 992
declarant or other patient, or the family of a declarant or 993
other patient, has assigned primary responsibility for the 994
treatment or care of the declarant or other patient, or, if the 995
responsibility has not been assigned, the physician who has 996
accepted that responsibility. 997

(C) "Comfort care" means any of the following: 998

(1) Nutrition when administered to diminish the pain or 999
discomfort of a declarant or other patient, but not to postpone 1000
the declarant's or other patient's death; 1001

(2) Hydration when administered to diminish the pain or 1002
discomfort of a declarant or other patient, but not to postpone 1003
the declarant's or other patient's death; 1004

(3) Any other medical or nursing procedure, treatment, 1005
intervention, or other measure that is taken to diminish the 1006
pain or discomfort of a declarant or other patient, but not to 1007
postpone the declarant's or other patient's death. 1008

(D) "Consulting physician" means a physician who, in 1009
conjunction with the attending physician of a declarant or other 1010
patient, makes one or more determinations that are required to 1011
be made by the attending physician, or to be made by the 1012
attending physician and one other physician, by an applicable 1013
provision of this chapter, to a reasonable degree of medical 1014
certainty and in accordance with reasonable medical standards. 1015

(E) "Declarant" means any adult who has executed a 1016
declaration in accordance with section 2133.02 of the Revised 1017
Code. 1018

(F) "Declaration" means a written document executed in accordance with section 2133.02 of the Revised Code.	1019 1020
(G) "Durable power of attorney for health care" means a document created pursuant to sections 1337.11 to 1337.17 of the Revised Code.	1021 1022 1023
(H) "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.	1024 1025 1026
(I) "Health care facility" means any of the following:	1027
(1) A hospital;	1028
(2) A hospice care program, pediatric respite care program, or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;	1029 1030 1031 1032
(3) <u>A palliative care facility;</u>	1033
<u>(4)</u> A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	1034 1035
(4) <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;	1036 1037 1038
(5) <u>(6)</u> An intermediate care facility for individuals with intellectual disabilities.	1039 1040
(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	1041 1042 1043 1044 1045

physician, and administrators of health care facilities. 1046

(K) "Home health agency" has the same meaning as in 1047
section 3701.881 of the Revised Code. 1048

(L) "Hospice care program," "palliative care facility," 1049
and "pediatric respite care program" have the same meanings as 1050
in section 3712.01 of the Revised Code. 1051

(M) "Hospital" has the same meanings as in sections 1052
3701.01, 3727.01, and 5122.01 of the Revised Code. 1053

(N) "Hydration" means fluids that are artificially or 1054
technologically administered. 1055

(O) "Incompetent" has the same meaning as in section 1056
2111.01 of the Revised Code. 1057

(P) "Intermediate care facility for the individuals with 1058
intellectual disabilities" has the same meaning as in section 1059
5124.01 of the Revised Code. 1060

(Q) "Life-sustaining treatment" means any medical 1061
procedure, treatment, intervention, or other measure that, when 1062
administered to a qualified patient or other patient, will serve 1063
principally to prolong the process of dying. 1064

(R) "Nurse" means a person who is licensed to practice 1065
nursing as a registered nurse or to practice practical nursing 1066
as a licensed practical nurse pursuant to Chapter 4723. of the 1067
Revised Code. 1068

(S) "Nursing home" has the same meaning as in section 1069
3721.01 of the Revised Code. 1070

(T) "Nutrition" means sustenance that is artificially or 1071
technologically administered. 1072

(U) "Permanently unconscious state" means a state of 1073
permanent unconsciousness in a declarant or other patient that, 1074
to a reasonable degree of medical certainty as determined in 1075
accordance with reasonable medical standards by the declarant's 1076
or other patient's attending physician and one other physician 1077
who has examined the declarant or other patient, is 1078
characterized by both of the following: 1079

(1) Irreversible unawareness of one's being and 1080
environment. 1081

(2) Total loss of cerebral cortical functioning, resulting 1082
in the declarant or other patient having no capacity to 1083
experience pain or suffering. 1084

(V) "Person" has the same meaning as in section 1.59 of 1085
the Revised Code and additionally includes political 1086
subdivisions and governmental agencies, boards, commissions, 1087
departments, institutions, offices, and other instrumentalities. 1088

(W) "Physician" means a person who is authorized under 1089
Chapter 4731. of the Revised Code to practice medicine and 1090
surgery or osteopathic medicine and surgery. 1091

(X) "Political subdivision" and "state" have the same 1092
meanings as in section 2744.01 of the Revised Code. 1093

(Y) "Professional disciplinary action" means action taken 1094
by the board or other entity that regulates the professional 1095
conduct of health care personnel, including the state medical 1096
board and the board of nursing. 1097

(Z) "Qualified patient" means an adult who has executed a 1098
declaration and has been determined to be in a terminal 1099
condition or in a permanently unconscious state. 1100

(AA) "Terminal condition" means an irreversible, 1101
incurable, and untreatable condition caused by disease, illness, 1102
or injury from which, to a reasonable degree of medical 1103
certainty as determined in accordance with reasonable medical 1104
standards by a declarant's or other patient's attending 1105
physician and one other physician who has examined the declarant 1106
or other patient, both of the following apply: 1107

(1) There can be no recovery. 1108

(2) Death is likely to occur within a relatively short 1109
time if life-sustaining treatment is not administered. 1110

(BB) "Tort action" means a civil action for damages for 1111
injury, death, or loss to person or property, other than a civil 1112
action for damages for breach of a contract or another agreement 1113
between persons. 1114

Sec. 2317.54. No hospital, home health agency, ambulatory 1115
surgical facility, palliative care facility, or provider of a 1116
hospice care program or pediatric respite care program shall be 1117
held liable for a physician's failure to obtain an informed 1118
consent from the physician's patient prior to a surgical or 1119
medical procedure or course of procedures, unless the physician 1120
is an employee of the hospital, home health agency, ambulatory 1121
surgical facility, palliative care facility, or provider of a 1122
hospice care program or pediatric respite care program. 1123

Written consent to a surgical or medical procedure or 1124
course of procedures shall, to the extent that it fulfills all 1125
the requirements in divisions (A), (B), and (C) of this section, 1126
be presumed to be valid and effective, in the absence of proof 1127
by a preponderance of the evidence that the person who sought 1128
such consent was not acting in good faith, or that the execution 1129

of the consent was induced by fraudulent misrepresentation of 1130
material facts, or that the person executing the consent was not 1131
able to communicate effectively in spoken and written English or 1132
any other language in which the consent is written. Except as 1133
herein provided, no evidence shall be admissible to impeach, 1134
modify, or limit the authorization for performance of the 1135
procedure or procedures set forth in such written consent. 1136

(A) The consent sets forth in general terms the nature and 1137
purpose of the procedure or procedures, and what the procedures 1138
are expected to accomplish, together with the reasonably known 1139
risks, and, except in emergency situations, sets forth the names 1140
of the physicians who shall perform the intended surgical 1141
procedures. 1142

(B) The person making the consent acknowledges that such 1143
disclosure of information has been made and that all questions 1144
asked about the procedure or procedures have been answered in a 1145
satisfactory manner. 1146

(C) The consent is signed by the patient for whom the 1147
procedure is to be performed, or, if the patient for any reason 1148
including, but not limited to, competence, minority, or the fact 1149
that, at the latest time that the consent is needed, the patient 1150
is under the influence of alcohol, hallucinogens, or drugs, 1151
lacks legal capacity to consent, by a person who has legal 1152
authority to consent on behalf of such patient in such 1153
circumstances, including either of the following: 1154

(1) The parent, whether the parent is an adult or a minor, 1155
of the parent's minor child; 1156

(2) An adult whom the parent of the minor child has given 1157
written authorization to consent to a surgical or medical 1158

procedure or course of procedures for the parent's minor child. 1159

Any use of a consent form that fulfills the requirements 1160
stated in divisions (A), (B), and (C) of this section has no 1161
effect on the common law rights and liabilities, including the 1162
right of a physician to obtain the oral or implied consent of a 1163
patient to a medical procedure, that may exist as between 1164
physicians and patients on July 28, 1975. 1165

As used in this section the term "hospital" has the same 1166
meaning as in section 2305.113 of the Revised Code; "home health 1167
agency" has the same meaning as in section 5101.61 of the 1168
Revised Code; "ambulatory surgical facility" has the meaning as 1169
in division (A) of section 3702.30 of the Revised Code; and 1170
"hospice care program," "palliative care facility," and 1171
"pediatric respite care program" have the same meanings as in 1172
section 3712.01 of the Revised Code. The provisions of this 1173
division apply to hospitals, doctors of medicine, doctors of 1174
osteopathic medicine, and doctors of podiatric medicine. 1175

Sec. 2929.14. (A) Except as provided in division (B) (1), 1176
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), 1177
(G), (H), (J), or (K) of this section or in division (D) (6) of 1178
section 2919.25 of the Revised Code and except in relation to an 1179
offense for which a sentence of death or life imprisonment is to 1180
be imposed, if the court imposing a sentence upon an offender 1181
for a felony elects or is required to impose a prison term on 1182
the offender pursuant to this chapter, the court shall impose a 1183
definite prison term that shall be one of the following: 1184

(1) For a felony of the first degree, the prison term 1185
shall be three, four, five, six, seven, eight, nine, ten, or 1186
eleven years. 1187

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years. 1188
1189

(3) (a) For a felony of the third degree that is a violation of section 2903.06, 2903.08, 2907.03, 2907.04, ~~or~~ 2907.05, or 3795.04 of the Revised Code or that is a violation of section 2911.02 or 2911.12 of the Revised Code if the offender previously has been convicted of or pleaded guilty in two or more separate proceedings to two or more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the prison term shall be twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty months. 1190
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(b) For a felony of the third degree that is not an offense for which division (A) (3) (a) of this section applies, the prison term shall be nine, twelve, eighteen, twenty-four, thirty, or thirty-six months. 1200
1201
1202
1203

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months. 1204
1205
1206

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months. 1207
1208

(B) (1) (a) Except as provided in division (B) (1) (e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms: 1209
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1212
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1214

(i) A prison term of six years if the specification is of the type described in division (A) of section 2941.144 of the 1215
1216

Revised Code that charges the offender with having a firearm 1217
that is an automatic firearm or that was equipped with a firearm 1218
muffler or suppressor on or about the offender's person or under 1219
the offender's control while committing the offense; 1220

(ii) A prison term of three years if the specification is 1221
of the type described in division (A) of section 2941.145 of the 1222
Revised Code that charges the offender with having a firearm on 1223
or about the offender's person or under the offender's control 1224
while committing the offense and displaying the firearm, 1225
brandishing the firearm, indicating that the offender possessed 1226
the firearm, or using it to facilitate the offense; 1227

(iii) A prison term of one year if the specification is of 1228
the type described in division (A) of section 2941.141 of the 1229
Revised Code that charges the offender with having a firearm on 1230
or about the offender's person or under the offender's control 1231
while committing the offense; 1232

(iv) A prison term of nine years if the specification is 1233
of the type described in division (D) of section 2941.144 of the 1234
Revised Code that charges the offender with having a firearm 1235
that is an automatic firearm or that was equipped with a firearm 1236
muffler or suppressor on or about the offender's person or under 1237
the offender's control while committing the offense and 1238
specifies that the offender previously has been convicted of or 1239
pleaded guilty to a specification of the type described in 1240
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1241
the Revised Code; 1242

(v) A prison term of fifty-four months if the 1243
specification is of the type described in division (D) of 1244
section 2941.145 of the Revised Code that charges the offender 1245
with having a firearm on or about the offender's person or under 1246

the offender's control while committing the offense and 1247
displaying the firearm, brandishing the firearm, indicating that 1248
the offender possessed the firearm, or using the firearm to 1249
facilitate the offense and that the offender previously has been 1250
convicted of or pleaded guilty to a specification of the type 1251
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 1252
2941.1412 of the Revised Code; 1253

(vi) A prison term of eighteen months if the specification 1254
is of the type described in division (D) of section 2941.141 of 1255
the Revised Code that charges the offender with having a firearm 1256
on or about the offender's person or under the offender's 1257
control while committing the offense and that the offender 1258
previously has been convicted of or pleaded guilty to a 1259
specification of the type described in section 2941.141, 1260
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 1261

(b) If a court imposes a prison term on an offender under 1262
division (B)(1)(a) of this section, the prison term shall not be 1263
reduced pursuant to section 2967.19, section 2929.20, section 1264
2967.193, or any other provision of Chapter 2967. or Chapter 1265
5120. of the Revised Code. Except as provided in division (B)(1) 1266
(g) of this section, a court shall not impose more than one 1267
prison term on an offender under division (B)(1)(a) of this 1268
section for felonies committed as part of the same act or 1269
transaction. 1270

(c) (i) Except as provided in division (B)(1)(e) of this 1271
section, if an offender who is convicted of or pleads guilty to 1272
a violation of section 2923.161 of the Revised Code or to a 1273
felony that includes, as an essential element, purposely or 1274
knowingly causing or attempting to cause the death of or 1275
physical harm to another, also is convicted of or pleads guilty 1276

to a specification of the type described in division (A) of 1277
section 2941.146 of the Revised Code that charges the offender 1278
with committing the offense by discharging a firearm from a 1279
motor vehicle other than a manufactured home, the court, after 1280
imposing a prison term on the offender for the violation of 1281
section 2923.161 of the Revised Code or for the other felony 1282
offense under division (A), (B) (2), or (B) (3) of this section, 1283
shall impose an additional prison term of five years upon the 1284
offender that shall not be reduced pursuant to section 2929.20, 1285
section 2967.19, section 2967.193, or any other provision of 1286
Chapter 2967. or Chapter 5120. of the Revised Code. 1287

(ii) Except as provided in division (B) (1) (e) of this 1288
section, if an offender who is convicted of or pleads guilty to 1289
a violation of section 2923.161 of the Revised Code or to a 1290
felony that includes, as an essential element, purposely or 1291
knowingly causing or attempting to cause the death of or 1292
physical harm to another, also is convicted of or pleads guilty 1293
to a specification of the type described in division (C) of 1294
section 2941.146 of the Revised Code that charges the offender 1295
with committing the offense by discharging a firearm from a 1296
motor vehicle other than a manufactured home and that the 1297
offender previously has been convicted of or pleaded guilty to a 1298
specification of the type described in section 2941.141, 1299
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 1300
the court, after imposing a prison term on the offender for the 1301
violation of section 2923.161 of the Revised Code or for the 1302
other felony offense under division (A), (B) (2), or (3) of this 1303
section, shall impose an additional prison term of ninety months 1304
upon the offender that shall not be reduced pursuant to section 1305
2929.20, 2967.19, 2967.193, or any other provision of Chapter 1306
2967. or Chapter 5120. of the Revised Code. 1307

(iii) A court shall not impose more than one additional 1308
prison term on an offender under division (B) (1) (c) of this 1309
section for felonies committed as part of the same act or 1310
transaction. If a court imposes an additional prison term on an 1311
offender under division (B) (1) (c) of this section relative to an 1312
offense, the court also shall impose a prison term under 1313
division (B) (1) (a) of this section relative to the same offense, 1314
provided the criteria specified in that division for imposing an 1315
additional prison term are satisfied relative to the offender 1316
and the offense. 1317

(d) If an offender who is convicted of or pleads guilty to 1318
an offense of violence that is a felony also is convicted of or 1319
pleads guilty to a specification of the type described in 1320
section 2941.1411 of the Revised Code that charges the offender 1321
with wearing or carrying body armor while committing the felony 1322
offense of violence, the court shall impose on the offender a 1323
prison term of two years. The prison term so imposed, subject to 1324
divisions (C) to (I) of section 2967.19 of the Revised Code, 1325
shall not be reduced pursuant to section 2929.20, section 1326
2967.19, section 2967.193, or any other provision of Chapter 1327
2967. or Chapter 5120. of the Revised Code. A court shall not 1328
impose more than one prison term on an offender under division 1329
(B) (1) (d) of this section for felonies committed as part of the 1330
same act or transaction. If a court imposes an additional prison 1331
term under division (B) (1) (a) or (c) of this section, the court 1332
is not precluded from imposing an additional prison term under 1333
division (B) (1) (d) of this section. 1334

(e) The court shall not impose any of the prison terms 1335
described in division (B) (1) (a) of this section or any of the 1336
additional prison terms described in division (B) (1) (c) of this 1337
section upon an offender for a violation of section 2923.12 or 1338

2923.123 of the Revised Code. The court shall not impose any of 1339
the prison terms described in division (B) (1) (a) or (b) of this 1340
section upon an offender for a violation of section 2923.122 1341
that involves a deadly weapon that is a firearm other than a 1342
dangerous ordnance, section 2923.16, or section 2923.121 of the 1343
Revised Code. The court shall not impose any of the prison terms 1344
described in division (B) (1) (a) of this section or any of the 1345
additional prison terms described in division (B) (1) (c) of this 1346
section upon an offender for a violation of section 2923.13 of 1347
the Revised Code unless all of the following apply: 1348

(i) The offender previously has been convicted of 1349
aggravated murder, murder, or any felony of the first or second 1350
degree. 1351

(ii) Less than five years have passed since the offender 1352
was released from prison or post-release control, whichever is 1353
later, for the prior offense. 1354

(f) (i) If an offender is convicted of or pleads guilty to 1355
a felony that includes, as an essential element, causing or 1356
attempting to cause the death of or physical harm to another and 1357
also is convicted of or pleads guilty to a specification of the 1358
type described in division (A) of section 2941.1412 of the 1359
Revised Code that charges the offender with committing the 1360
offense by discharging a firearm at a peace officer as defined 1361
in section 2935.01 of the Revised Code or a corrections officer, 1362
as defined in section 2941.1412 of the Revised Code, the court, 1363
after imposing a prison term on the offender for the felony 1364
offense under division (A), (B) (2), or (B) (3) of this section, 1365
shall impose an additional prison term of seven years upon the 1366
offender that shall not be reduced pursuant to section 2929.20, 1367
section 2967.19, section 2967.193, or any other provision of 1368

Chapter 2967. or Chapter 5120. of the Revised Code. 1369

(ii) If an offender is convicted of or pleads guilty to a 1370
felony that includes, as an essential element, causing or 1371
attempting to cause the death of or physical harm to another and 1372
also is convicted of or pleads guilty to a specification of the 1373
type described in division (B) of section 2941.1412 of the 1374
Revised Code that charges the offender with committing the 1375
offense by discharging a firearm at a peace officer, as defined 1376
in section 2935.01 of the Revised Code, or a corrections 1377
officer, as defined in section 2941.1412 of the Revised Code, 1378
and that the offender previously has been convicted of or 1379
pleaded guilty to a specification of the type described in 1380
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1381
the Revised Code, the court, after imposing a prison term on the 1382
offender for the felony offense under division (A), (B) (2), or 1383
(3) of this section, shall impose an additional prison term of 1384
one hundred twenty-six months upon the offender that shall not 1385
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 1386
any other provision of Chapter 2967. or 5120. of the Revised 1387
Code. 1388

(iii) If an offender is convicted of or pleads guilty to 1389
two or more felonies that include, as an essential element, 1390
causing or attempting to cause the death or physical harm to 1391
another and also is convicted of or pleads guilty to a 1392
specification of the type described under division (B) (1) (f) of 1393
this section in connection with two or more of the felonies of 1394
which the offender is convicted or to which the offender pleads 1395
guilty, the sentencing court shall impose on the offender the 1396
prison term specified under division (B) (1) (f) of this section 1397
for each of two of the specifications of which the offender is 1398
convicted or to which the offender pleads guilty and, in its 1399

discretion, also may impose on the offender the prison term 1400
specified under that division for any or all of the remaining 1401
specifications. If a court imposes an additional prison term on 1402
an offender under division (B) (1) (f) of this section relative to 1403
an offense, the court shall not impose a prison term under 1404
division (B) (1) (a) or (c) of this section relative to the same 1405
offense. 1406

(g) If an offender is convicted of or pleads guilty to two 1407
or more felonies, if one or more of those felonies are 1408
aggravated murder, murder, attempted aggravated murder, 1409
attempted murder, aggravated robbery, felonious assault, or 1410
rape, and if the offender is convicted of or pleads guilty to a 1411
specification of the type described under division (B) (1) (a) of 1412
this section in connection with two or more of the felonies, the 1413
sentencing court shall impose on the offender the prison term 1414
specified under division (B) (1) (a) of this section for each of 1415
the two most serious specifications of which the offender is 1416
convicted or to which the offender pleads guilty and, in its 1417
discretion, also may impose on the offender the prison term 1418
specified under that division for any or all of the remaining 1419
specifications. 1420

(2) (a) If division (B) (2) (b) of this section does not 1421
apply, the court may impose on an offender, in addition to the 1422
longest prison term authorized or required for the offense, an 1423
additional definite prison term of one, two, three, four, five, 1424
six, seven, eight, nine, or ten years if all of the following 1425
criteria are met: 1426

(i) The offender is convicted of or pleads guilty to a 1427
specification of the type described in section 2941.149 of the 1428
Revised Code that the offender is a repeat violent offender. 1429

(ii) The offense of which the offender currently is 1430
convicted or to which the offender currently pleads guilty is 1431
aggravated murder and the court does not impose a sentence of 1432
death or life imprisonment without parole, murder, terrorism and 1433
the court does not impose a sentence of life imprisonment 1434
without parole, any felony of the first degree that is an 1435
offense of violence and the court does not impose a sentence of 1436
life imprisonment without parole, or any felony of the second 1437
degree that is an offense of violence and the trier of fact 1438
finds that the offense involved an attempt to cause or a threat 1439
to cause serious physical harm to a person or resulted in 1440
serious physical harm to a person. 1441

(iii) The court imposes the longest prison term for the 1442
offense that is not life imprisonment without parole. 1443

(iv) The court finds that the prison terms imposed 1444
pursuant to division (B) (2) (a) (iii) of this section and, if 1445
applicable, division (B) (1) or (3) of this section are 1446
inadequate to punish the offender and protect the public from 1447
future crime, because the applicable factors under section 1448
2929.12 of the Revised Code indicating a greater likelihood of 1449
recidivism outweigh the applicable factors under that section 1450
indicating a lesser likelihood of recidivism. 1451

(v) The court finds that the prison terms imposed pursuant 1452
to division (B) (2) (a) (iii) of this section and, if applicable, 1453
division (B) (1) or (3) of this section are demeaning to the 1454
seriousness of the offense, because one or more of the factors 1455
under section 2929.12 of the Revised Code indicating that the 1456
offender's conduct is more serious than conduct normally 1457
constituting the offense are present, and they outweigh the 1458
applicable factors under that section indicating that the 1459

offender's conduct is less serious than conduct normally 1460
constituting the offense. 1461

(b) The court shall impose on an offender the longest 1462
prison term authorized or required for the offense and shall 1463
impose on the offender an additional definite prison term of 1464
one, two, three, four, five, six, seven, eight, nine, or ten 1465
years if all of the following criteria are met: 1466

(i) The offender is convicted of or pleads guilty to a 1467
specification of the type described in section 2941.149 of the 1468
Revised Code that the offender is a repeat violent offender. 1469

(ii) The offender within the preceding twenty years has 1470
been convicted of or pleaded guilty to three or more offenses 1471
described in division (CC) (1) of section 2929.01 of the Revised 1472
Code, including all offenses described in that division of which 1473
the offender is convicted or to which the offender pleads guilty 1474
in the current prosecution and all offenses described in that 1475
division of which the offender previously has been convicted or 1476
to which the offender previously pleaded guilty, whether 1477
prosecuted together or separately. 1478

(iii) The offense or offenses of which the offender 1479
currently is convicted or to which the offender currently pleads 1480
guilty is aggravated murder and the court does not impose a 1481
sentence of death or life imprisonment without parole, murder, 1482
terrorism and the court does not impose a sentence of life 1483
imprisonment without parole, any felony of the first degree that 1484
is an offense of violence and the court does not impose a 1485
sentence of life imprisonment without parole, or any felony of 1486
the second degree that is an offense of violence and the trier 1487
of fact finds that the offense involved an attempt to cause or a 1488
threat to cause serious physical harm to a person or resulted in 1489

serious physical harm to a person. 1490

(c) For purposes of division (B)(2)(b) of this section, 1491
two or more offenses committed at the same time or as part of 1492
the same act or event shall be considered one offense, and that 1493
one offense shall be the offense with the greatest penalty. 1494

(d) A sentence imposed under division (B)(2)(a) or (b) of 1495
this section shall not be reduced pursuant to section 2929.20, 1496
section 2967.19, or section 2967.193, or any other provision of 1497
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 1498
shall serve an additional prison term imposed under this section 1499
consecutively to and prior to the prison term imposed for the 1500
underlying offense. 1501

(e) When imposing a sentence pursuant to division (B)(2) 1502
(a) or (b) of this section, the court shall state its findings 1503
explaining the imposed sentence. 1504

(3) Except when an offender commits a violation of section 1505
2903.01 or 2907.02 of the Revised Code and the penalty imposed 1506
for the violation is life imprisonment or commits a violation of 1507
section 2903.02 of the Revised Code, if the offender commits a 1508
violation of section 2925.03 or 2925.11 of the Revised Code and 1509
that section classifies the offender as a major drug offender, 1510
if the offender commits a felony violation of section 2925.02, 1511
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 1512
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 1513
division (C) of section 4729.51, or division (J) of section 1514
4729.54 of the Revised Code that includes the sale, offer to 1515
sell, or possession of a schedule I or II controlled substance, 1516
with the exception of marihuana, and the court imposing sentence 1517
upon the offender finds that the offender is guilty of a 1518
specification of the type described in section 2941.1410 of the 1519

Revised Code charging that the offender is a major drug 1520
offender, if the court imposing sentence upon an offender for a 1521
felony finds that the offender is guilty of corrupt activity 1522
with the most serious offense in the pattern of corrupt activity 1523
being a felony of the first degree, or if the offender is guilty 1524
of an attempted violation of section 2907.02 of the Revised Code 1525
and, had the offender completed the violation of section 2907.02 1526
of the Revised Code that was attempted, the offender would have 1527
been subject to a sentence of life imprisonment or life 1528
imprisonment without parole for the violation of section 2907.02 1529
of the Revised Code, the court shall impose upon the offender 1530
for the felony violation a mandatory prison term of the maximum 1531
prison term prescribed for a felony of the first degree that, 1532
subject to divisions (C) to (I) of section 2967.19 of the 1533
Revised Code, cannot be reduced pursuant to section 2929.20, 1534
section 2967.19, or any other provision of Chapter 2967. or 1535
5120. of the Revised Code. 1536

(4) If the offender is being sentenced for a third or 1537
fourth degree felony OVI offense under division (G) (2) of 1538
section 2929.13 of the Revised Code, the sentencing court shall 1539
impose upon the offender a mandatory prison term in accordance 1540
with that division. In addition to the mandatory prison term, if 1541
the offender is being sentenced for a fourth degree felony OVI 1542
offense, the court, notwithstanding division (A) (4) of this 1543
section, may sentence the offender to a definite prison term of 1544
not less than six months and not more than thirty months, and if 1545
the offender is being sentenced for a third degree felony OVI 1546
offense, the sentencing court may sentence the offender to an 1547
additional prison term of any duration specified in division (A) 1548
(3) of this section. In either case, the additional prison term 1549
imposed shall be reduced by the sixty or one hundred twenty days 1550

imposed upon the offender as the mandatory prison term. The 1551
total of the additional prison term imposed under division (B) 1552
(4) of this section plus the sixty or one hundred twenty days 1553
imposed as the mandatory prison term shall equal a definite term 1554
in the range of six months to thirty months for a fourth degree 1555
felony OVI offense and shall equal one of the authorized prison 1556
terms specified in division (A) (3) of this section for a third 1557
degree felony OVI offense. If the court imposes an additional 1558
prison term under division (B) (4) of this section, the offender 1559
shall serve the additional prison term after the offender has 1560
served the mandatory prison term required for the offense. In 1561
addition to the mandatory prison term or mandatory and 1562
additional prison term imposed as described in division (B) (4) 1563
of this section, the court also may sentence the offender to a 1564
community control sanction under section 2929.16 or 2929.17 of 1565
the Revised Code, but the offender shall serve all of the prison 1566
terms so imposed prior to serving the community control 1567
sanction. 1568

If the offender is being sentenced for a fourth degree 1569
felony OVI offense under division (G) (1) of section 2929.13 of 1570
the Revised Code and the court imposes a mandatory term of local 1571
incarceration, the court may impose a prison term as described 1572
in division (A) (1) of that section. 1573

(5) If an offender is convicted of or pleads guilty to a 1574
violation of division (A) (1) or (2) of section 2903.06 of the 1575
Revised Code and also is convicted of or pleads guilty to a 1576
specification of the type described in section 2941.1414 of the 1577
Revised Code that charges that the victim of the offense is a 1578
peace officer, as defined in section 2935.01 of the Revised 1579
Code, or an investigator of the bureau of criminal 1580
identification and investigation, as defined in section 2903.11 1581

of the Revised Code, the court shall impose on the offender a 1582
prison term of five years. If a court imposes a prison term on 1583
an offender under division (B) (5) of this section, the prison 1584
term, subject to divisions (C) to (I) of section 2967.19 of the 1585
Revised Code, shall not be reduced pursuant to section 2929.20, 1586
section 2967.19, section 2967.193, or any other provision of 1587
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1588
shall not impose more than one prison term on an offender under 1589
division (B) (5) of this section for felonies committed as part 1590
of the same act. 1591

(6) If an offender is convicted of or pleads guilty to a 1592
violation of division (A) (1) or (2) of section 2903.06 of the 1593
Revised Code and also is convicted of or pleads guilty to a 1594
specification of the type described in section 2941.1415 of the 1595
Revised Code that charges that the offender previously has been 1596
convicted of or pleaded guilty to three or more violations of 1597
division (A) or (B) of section 4511.19 of the Revised Code or an 1598
equivalent offense, as defined in section 2941.1415 of the 1599
Revised Code, or three or more violations of any combination of 1600
those divisions and offenses, the court shall impose on the 1601
offender a prison term of three years. If a court imposes a 1602
prison term on an offender under division (B) (6) of this 1603
section, the prison term, subject to divisions (C) to (I) of 1604
section 2967.19 of the Revised Code, shall not be reduced 1605
pursuant to section 2929.20, section 2967.19, section 2967.193, 1606
or any other provision of Chapter 2967. or Chapter 5120. of the 1607
Revised Code. A court shall not impose more than one prison term 1608
on an offender under division (B) (6) of this section for 1609
felonies committed as part of the same act. 1610

(7) (a) If an offender is convicted of or pleads guilty to 1611
a felony violation of section 2905.01, 2905.02, 2907.21, 1612

2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 1613
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 1614
the Revised Code and also is convicted of or pleads guilty to a 1615
specification of the type described in section 2941.1422 of the 1616
Revised Code that charges that the offender knowingly committed 1617
the offense in furtherance of human trafficking, the court shall 1618
impose on the offender a mandatory prison term that is one of 1619
the following: 1620

(i) If the offense is a felony of the first degree, a 1621
definite prison term of not less than five years and not greater 1622
than ten years; 1623

(ii) If the offense is a felony of the second or third 1624
degree, a definite prison term of not less than three years and 1625
not greater than the maximum prison term allowed for the offense 1626
by division (A) of section 2929.14 of the Revised Code; 1627

(iii) If the offense is a felony of the fourth or fifth 1628
degree, a definite prison term that is the maximum prison term 1629
allowed for the offense by division (A) of section 2929.14 of 1630
the Revised Code. 1631

(b) Subject to divisions (C) to (I) of section 2967.19 of 1632
the Revised Code, the prison term imposed under division (B) (7) 1633
(a) of this section shall not be reduced pursuant to section 1634
2929.20, section 2967.19, section 2967.193, or any other 1635
provision of Chapter 2967. of the Revised Code. A court shall 1636
not impose more than one prison term on an offender under 1637
division (B) (7) (a) of this section for felonies committed as 1638
part of the same act, scheme, or plan. 1639

(8) If an offender is convicted of or pleads guilty to a 1640
felony violation of section 2903.11, 2903.12, or 2903.13 of the 1641

Revised Code and also is convicted of or pleads guilty to a 1642
specification of the type described in section 2941.1423 of the 1643
Revised Code that charges that the victim of the violation was a 1644
woman whom the offender knew was pregnant at the time of the 1645
violation, notwithstanding the range of prison terms prescribed 1646
in division (A) of this section for felonies of the same degree 1647
as the violation, the court shall impose on the offender a 1648
mandatory prison term that is either a definite prison term of 1649
six months or one of the prison terms prescribed in section 1650
2929.14 of the Revised Code for felonies of the same degree as 1651
the violation. 1652

(C) (1) (a) Subject to division (C) (1) (b) of this section, 1653
if a mandatory prison term is imposed upon an offender pursuant 1654
to division (B) (1) (a) of this section for having a firearm on or 1655
about the offender's person or under the offender's control 1656
while committing a felony, if a mandatory prison term is imposed 1657
upon an offender pursuant to division (B) (1) (c) of this section 1658
for committing a felony specified in that division by 1659
discharging a firearm from a motor vehicle, or if both types of 1660
mandatory prison terms are imposed, the offender shall serve any 1661
mandatory prison term imposed under either division 1662
consecutively to any other mandatory prison term imposed under 1663
either division or under division (B) (1) (d) of this section, 1664
consecutively to and prior to any prison term imposed for the 1665
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 1666
this section or any other section of the Revised Code, and 1667
consecutively to any other prison term or mandatory prison term 1668
previously or subsequently imposed upon the offender. 1669

(b) If a mandatory prison term is imposed upon an offender 1670
pursuant to division (B) (1) (d) of this section for wearing or 1671
carrying body armor while committing an offense of violence that 1672

is a felony, the offender shall serve the mandatory term so 1673
imposed consecutively to any other mandatory prison term imposed 1674
under that division or under division (B) (1) (a) or (c) of this 1675
section, consecutively to and prior to any prison term imposed 1676
for the underlying felony under division (A), (B) (2), or (B) (3) 1677
of this section or any other section of the Revised Code, and 1678
consecutively to any other prison term or mandatory prison term 1679
previously or subsequently imposed upon the offender. 1680

(c) If a mandatory prison term is imposed upon an offender 1681
pursuant to division (B) (1) (f) of this section, the offender 1682
shall serve the mandatory prison term so imposed consecutively 1683
to and prior to any prison term imposed for the underlying 1684
felony under division (A), (B) (2), or (B) (3) of this section or 1685
any other section of the Revised Code, and consecutively to any 1686
other prison term or mandatory prison term previously or 1687
subsequently imposed upon the offender. 1688

(d) If a mandatory prison term is imposed upon an offender 1689
pursuant to division (B) (7) or (8) of this section, the offender 1690
shall serve the mandatory prison term so imposed consecutively 1691
to any other mandatory prison term imposed under that division 1692
or under any other provision of law and consecutively to any 1693
other prison term or mandatory prison term previously or 1694
subsequently imposed upon the offender. 1695

(2) If an offender who is an inmate in a jail, prison, or 1696
other residential detention facility violates section 2917.02, 1697
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 1698
(2) of section 2921.34 of the Revised Code, if an offender who 1699
is under detention at a detention facility commits a felony 1700
violation of section 2923.131 of the Revised Code, or if an 1701
offender who is an inmate in a jail, prison, or other 1702

residential detention facility or is under detention at a 1703
detention facility commits another felony while the offender is 1704
an escapee in violation of division (A) (1) or (2) of section 1705
2921.34 of the Revised Code, any prison term imposed upon the 1706
offender for one of those violations shall be served by the 1707
offender consecutively to the prison term or term of 1708
imprisonment the offender was serving when the offender 1709
committed that offense and to any other prison term previously 1710
or subsequently imposed upon the offender. 1711

(3) If a prison term is imposed for a violation of 1712
division (B) of section 2911.01 of the Revised Code, a violation 1713
of division (A) of section 2913.02 of the Revised Code in which 1714
the stolen property is a firearm or dangerous ordnance, or a 1715
felony violation of division (B) of section 2921.331 of the 1716
Revised Code, the offender shall serve that prison term 1717
consecutively to any other prison term or mandatory prison term 1718
previously or subsequently imposed upon the offender. 1719

(4) If multiple prison terms are imposed on an offender 1720
for convictions of multiple offenses, the court may require the 1721
offender to serve the prison terms consecutively if the court 1722
finds that the consecutive service is necessary to protect the 1723
public from future crime or to punish the offender and that 1724
consecutive sentences are not disproportionate to the 1725
seriousness of the offender's conduct and to the danger the 1726
offender poses to the public, and if the court also finds any of 1727
the following: 1728

(a) The offender committed one or more of the multiple 1729
offenses while the offender was awaiting trial or sentencing, 1730
was under a sanction imposed pursuant to section 2929.16, 1731
2929.17, or 2929.18 of the Revised Code, or was under post- 1732

release control for a prior offense. 1733

(b) At least two of the multiple offenses were committed 1734
as part of one or more courses of conduct, and the harm caused 1735
by two or more of the multiple offenses so committed was so 1736
great or unusual that no single prison term for any of the 1737
offenses committed as part of any of the courses of conduct 1738
adequately reflects the seriousness of the offender's conduct. 1739

(c) The offender's history of criminal conduct 1740
demonstrates that consecutive sentences are necessary to protect 1741
the public from future crime by the offender. 1742

(5) If a mandatory prison term is imposed upon an offender 1743
pursuant to division (B) (5) or (6) of this section, the offender 1744
shall serve the mandatory prison term consecutively to and prior 1745
to any prison term imposed for the underlying violation of 1746
division (A) (1) or (2) of section 2903.06 of the Revised Code 1747
pursuant to division (A) of this section or section 2929.142 of 1748
the Revised Code. If a mandatory prison term is imposed upon an 1749
offender pursuant to division (B) (5) of this section, and if a 1750
mandatory prison term also is imposed upon the offender pursuant 1751
to division (B) (6) of this section in relation to the same 1752
violation, the offender shall serve the mandatory prison term 1753
imposed pursuant to division (B) (5) of this section 1754
consecutively to and prior to the mandatory prison term imposed 1755
pursuant to division (B) (6) of this section and consecutively to 1756
and prior to any prison term imposed for the underlying 1757
violation of division (A) (1) or (2) of section 2903.06 of the 1758
Revised Code pursuant to division (A) of this section or section 1759
2929.142 of the Revised Code. 1760

(6) When consecutive prison terms are imposed pursuant to 1761
division (C) (1), (2), (3), (4), or (5) or division (H) (1) or (2) 1762

of this section, the term to be served is the aggregate of all 1763
of the terms so imposed. 1764

(D) (1) If a court imposes a prison term for a felony of 1765
the first degree, for a felony of the second degree, for a 1766
felony sex offense, or for a felony of the third degree that is 1767
not a felony sex offense and in the commission of which the 1768
offender caused or threatened to cause physical harm to a 1769
person, it shall include in the sentence a requirement that the 1770
offender be subject to a period of post-release control after 1771
the offender's release from imprisonment, in accordance with 1772
that division. If a court imposes a sentence including a prison 1773
term of a type described in this division on or after July 11, 1774
2006, the failure of a court to include a post-release control 1775
requirement in the sentence pursuant to this division does not 1776
negate, limit, or otherwise affect the mandatory period of post- 1777
release control that is required for the offender under division 1778
(B) of section 2967.28 of the Revised Code. Section 2929.191 of 1779
the Revised Code applies if, prior to July 11, 2006, a court 1780
imposed a sentence including a prison term of a type described 1781
in this division and failed to include in the sentence pursuant 1782
to this division a statement regarding post-release control. 1783

(2) If a court imposes a prison term for a felony of the 1784
third, fourth, or fifth degree that is not subject to division 1785
(D) (1) of this section, it shall include in the sentence a 1786
requirement that the offender be subject to a period of post- 1787
release control after the offender's release from imprisonment, 1788
in accordance with that division, if the parole board determines 1789
that a period of post-release control is necessary. Section 1790
2929.191 of the Revised Code applies if, prior to July 11, 2006, 1791
a court imposed a sentence including a prison term of a type 1792
described in this division and failed to include in the sentence 1793

pursuant to this division a statement regarding post-release control. 1794
1795

(E) The court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment if any of the following apply: 1796
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(1) A person is convicted of or pleads guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, and, in relation to that offense, the offender is adjudicated a sexually violent predator. 1802
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(2) A person is convicted of or pleads guilty to a violation of division (A) (1) (b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and either the court does not impose a sentence of life without parole when authorized pursuant to division (B) of section 2907.02 of the Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code. 1806
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(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code. 1814
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(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code. 1818
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(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) (d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and division (B) (2) of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(G) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(H) (1) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second,

or third degree that is an offense of violence also is convicted 1853
of or pleads guilty to a specification of the type described in 1854
section 2941.143 of the Revised Code that charges the offender 1855
with having committed the offense in a school safety zone or 1856
towards a person in a school safety zone, the court shall impose 1857
upon the offender an additional prison term of two years. The 1858
offender shall serve the additional two years consecutively to 1859
and prior to the prison term imposed for the underlying offense. 1860

(2) (a) If an offender is convicted of or pleads guilty to 1861
a felony violation of section 2907.22, 2907.24, 2907.241, or 1862
2907.25 of the Revised Code and to a specification of the type 1863
described in section 2941.1421 of the Revised Code and if the 1864
court imposes a prison term on the offender for the felony 1865
violation, the court may impose upon the offender an additional 1866
prison term as follows: 1867

(i) Subject to division (H) (2) (a) (ii) of this section, an 1868
additional prison term of one, two, three, four, five, or six 1869
months; 1870

(ii) If the offender previously has been convicted of or 1871
pleaded guilty to one or more felony or misdemeanor violations 1872
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 1873
the Revised Code and also was convicted of or pleaded guilty to 1874
a specification of the type described in section 2941.1421 of 1875
the Revised Code regarding one or more of those violations, an 1876
additional prison term of one, two, three, four, five, six, 1877
seven, eight, nine, ten, eleven, or twelve months. 1878

(b) In lieu of imposing an additional prison term under 1879
division (H) (2) (a) of this section, the court may directly 1880
impose on the offender a sanction that requires the offender to 1881
wear a real-time processing, continual tracking electronic 1882

monitoring device during the period of time specified by the 1883
court. The period of time specified by the court shall equal the 1884
duration of an additional prison term that the court could have 1885
imposed upon the offender under division (H) (2) (a) of this 1886
section. A sanction imposed under this division shall commence 1887
on the date specified by the court, provided that the sanction 1888
shall not commence until after the offender has served the 1889
prison term imposed for the felony violation of section 2907.22, 1890
2907.24, 2907.241, or 2907.25 of the Revised Code and any 1891
residential sanction imposed for the violation under section 1892
2929.16 of the Revised Code. A sanction imposed under this 1893
division shall be considered to be a community control sanction 1894
for purposes of section 2929.15 of the Revised Code, and all 1895
provisions of the Revised Code that pertain to community control 1896
sanctions shall apply to a sanction imposed under this division, 1897
except to the extent that they would by their nature be clearly 1898
inapplicable. The offender shall pay all costs associated with a 1899
sanction imposed under this division, including the cost of the 1900
use of the monitoring device. 1901

(I) At the time of sentencing, the court may recommend the 1902
offender for placement in a program of shock incarceration under 1903
section 5120.031 of the Revised Code or for placement in an 1904
intensive program prison under section 5120.032 of the Revised 1905
Code, disapprove placement of the offender in a program of shock 1906
incarceration or an intensive program prison of that nature, or 1907
make no recommendation on placement of the offender. In no case 1908
shall the department of rehabilitation and correction place the 1909
offender in a program or prison of that nature unless the 1910
department determines as specified in section 5120.031 or 1911
5120.032 of the Revised Code, whichever is applicable, that the 1912
offender is eligible for the placement. 1913

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the

notice to disapprove the placement. 1944

(J) If a person is convicted of or pleads guilty to 1945
aggravated vehicular homicide in violation of division (A) (1) of 1946
section 2903.06 of the Revised Code and division (B) (2) (c) of 1947
that section applies, the person shall be sentenced pursuant to 1948
section 2929.142 of the Revised Code. 1949

(K) (1) The court shall impose an additional mandatory 1950
prison term of two, three, four, five, six, seven, eight, nine, 1951
ten, or eleven years on an offender who is convicted of or 1952
pleads guilty to a violent felony offense if the offender also 1953
is convicted of or pleads guilty to a specification of the type 1954
described in section 2941.1424 of the Revised Code that charges 1955
that the offender is a violent career criminal and had a firearm 1956
on or about the offender's person or under the offender's 1957
control while committing the presently charged violent felony 1958
offense and displayed or brandished the firearm, indicated that 1959
the offender possessed a firearm, or used the firearm to 1960
facilitate the offense. The offender shall serve the prison term 1961
imposed under this division consecutively to and prior to the 1962
prison term imposed for the underlying offense. The prison term 1963
shall not be reduced pursuant to section 2929.20 or 2967.19 or 1964
any other provision of Chapter 2967. or 5120. of the Revised 1965
Code. A court may not impose more than one sentence under 1966
division (B) (2) (a) of this section and this division for acts 1967
committed as part of the same act or transaction. 1968

(2) As used in division (K) (1) of this section, "violent 1969
career criminal" and "violent felony offense" have the same 1970
meanings as in section 2923.132 of the Revised Code. 1971

Sec. 3701.881. (A) As used in this section: 1972

- (1) "Applicant" means a person who is under final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual or is referred to a home health agency by an employment service for such a position. 1973
1974
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- (2) "Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code. 1978
1979
- (3) "Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code. 1980
1981
- (4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 1982
1983
- (5) "Direct care" means any of the following: 1984
- (a) Any service identified in divisions (A) (8) (a) to (f) of this section that is provided in a patient's place of residence used as the patient's home; 1985
1986
1987
- (b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient; 1988
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1991
- (c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care. 1992
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- (6) "Disqualifying offense" means any of the offenses listed or described in divisions (A) (3) (a) to (e) of section 109.572 of the Revised Code. 1995
1996
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- (7) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who 1998
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2000

works in such a position due to being referred to a home health agency by an employment service.	2001 2002
(8) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, <u>palliative care facility</u> , hospice care program, or pediatric respite care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:	2003 2004 2005 2006 2007 2008
(a) Skilled nursing care;	2009
(b) Physical therapy;	2010
(c) Speech-language pathology;	2011
(d) Occupational therapy;	2012
(e) Medical social services;	2013
(f) Home health aide services.	2014
(9) "Home health aide services" means any of the following services provided by an employee of a home health agency:	2015 2016
(a) Hands-on bathing or assistance with a tub bath or shower;	2017 2018
(b) Assistance with dressing, ambulation, and toileting;	2019
(c) Catheter care but not insertion;	2020
(d) Meal preparation and feeding.	2021
(10) "Hospice care program," " <u>palliative care facility</u> ," and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	2022 2023 2024
(11) "Medical social services" means services provided by a social worker under the direction of a patient's attending	2025 2026

physician.	2027
(12) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	2028 2029
(13) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	2030 2031 2032
(14) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.	2033 2034
(15) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.	2035 2036
(16) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	2037 2038 2039
(17) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.	2040 2041
(18) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.	2042 2043
(B) No home health agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply:	2044 2045 2046 2047
(1) A review of the databases listed in division (D) of this section reveals any of the following:	2048 2049
(a) That the applicant or employee is included in one or more of the databases listed in divisions (D) (1) to (5) of this section;	2050 2051 2052
(b) That there is in the state nurse aide registry	2053

established under section 3721.32 of the Revised Code a 2054
statement detailing findings by the director of health that the 2055
applicant or employee neglected or abused a long-term care 2056
facility or residential care facility resident or 2057
misappropriated property of such a resident; 2058

(c) That the applicant or employee is included in one or 2059
more of the databases, if any, specified in rules adopted under 2060
this section and the rules prohibit the home health agency from 2061
employing an applicant or continuing to employ an employee 2062
included in such a database in a position that involves 2063
providing direct care to an individual. 2064

(2) After the applicant or employee is provided, pursuant 2065
to division (E) (2) (a) of this section, a copy of the form 2066
prescribed pursuant to division (C) (1) of section 109.572 of the 2067
Revised Code and the standard impression sheet prescribed 2068
pursuant to division (C) (2) of that section, the applicant or 2069
employee fails to complete the form or provide the applicant's 2070
or employee's fingerprint impressions on the standard impression 2071
sheet. 2072

(3) Except as provided in rules adopted under this 2073
section, the applicant or employee is found by a criminal 2074
records check required by this section to have been convicted 2075
of, pleaded guilty to, or been found eligible for intervention 2076
in lieu of conviction for a disqualifying offense. 2077

(C) Except as provided by division (F) of this section, 2078
the chief administrator of a home health agency shall inform 2079
each applicant of both of the following at the time of the 2080
applicant's initial application for employment or referral to 2081
the home health agency by an employment service for a position 2082
that involves providing direct care to an individual: 2083

(1) That a review of the databases listed in division (D) 2084
of this section will be conducted to determine whether the home 2085
health agency is prohibited by division (B) (1) of this section 2086
from employing the applicant in the position; 2087

(2) That, unless the database review reveals that the 2088
applicant may not be employed in the position, a criminal 2089
records check of the applicant will be conducted and the 2090
applicant is required to provide a set of the applicant's 2091
fingerprint impressions as part of the criminal records check. 2092

(D) As a condition of employing any applicant in a 2093
position that involves providing direct care to an individual, 2094
the chief administrator of a home health agency shall conduct a 2095
database review of the applicant in accordance with rules 2096
adopted under this section. If rules adopted under this section 2097
so require, the chief administrator of a home health agency 2098
shall conduct a database review of an employee in accordance 2099
with the rules as a condition of continuing to employ the 2100
employee in a position that involves providing direct care to an 2101
individual. However, the chief administrator is not required to 2102
conduct a database review of an applicant or employee if 2103
division (F) of this section applies. A database review shall 2104
determine whether the applicant or employee is included in any 2105
of the following: 2106

(1) The excluded parties list system that is maintained by 2107
the United States general services administration pursuant to 2108
subpart 9.4 of the federal acquisition regulation and available 2109
at the federal web site known as the system for award 2110
management; 2111

(2) The list of excluded individuals and entities 2112
maintained by the office of inspector general in the United 2113

States department of health and human services pursuant to the 2114
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 2115
and 1320c-5; 2116

(3) The registry of MR/DD employees established under 2117
section 5123.52 of the Revised Code; 2118

(4) The internet-based sex offender and child-victim 2119
offender database established under division (A)(11) of section 2120
2950.13 of the Revised Code; 2121

(5) The internet-based database of inmates established 2122
under section 5120.66 of the Revised Code; 2123

(6) The state nurse aide registry established under 2124
section 3721.32 of the Revised Code; 2125

(7) Any other database, if any, specified in rules adopted 2126
under this section. 2127

(E)(1) As a condition of employing any applicant in a 2128
position that involves providing direct care to an individual, 2129
the chief administrator of a home health agency shall request 2130
the superintendent of the bureau of criminal identification and 2131
investigation to conduct a criminal records check of the 2132
applicant. If rules adopted under this section so require, the 2133
chief administrator of a home health agency shall request the 2134
superintendent to conduct a criminal records check of an 2135
employee at times specified in the rules as a condition of 2136
continuing to employ the employee in a position that involves 2137
providing direct care to an individual. However, the chief 2138
administrator is not required to request the criminal records 2139
check of the applicant or the employee if division (F) of this 2140
section applies or the home health agency is prohibited by 2141
division (B)(1) of this section from employing the applicant or 2142

continuing to employ the employee in a position that involves 2143
providing direct care to an individual. If an applicant or 2144
employee for whom a criminal records check request is required 2145
by this section does not present proof of having been a resident 2146
of this state for the five-year period immediately prior to the 2147
date upon which the criminal records check is requested or does 2148
not provide evidence that within that five-year period the 2149
superintendent has requested information about the applicant 2150
from the federal bureau of investigation in a criminal records 2151
check, the chief administrator shall request that the 2152
superintendent obtain information from the federal bureau of 2153
investigation as a part of the criminal records check. Even if 2154
an applicant or employee for whom a criminal records check 2155
request is required by this section presents proof that the 2156
applicant or employee has been a resident of this state for that 2157
five-year period, the chief administrator may request that the 2158
superintendent include information from the federal bureau of 2159
investigation in the criminal records check. 2160

(2) The chief administrator shall do all of the following: 2161

(a) Provide to each applicant and employee for whom a 2162
criminal records check request is required by this section a 2163
copy of the form prescribed pursuant to division (C)(1) of 2164
section 109.572 of the Revised Code and a standard impression 2165
sheet prescribed pursuant to division (C)(2) of that section; 2166

(b) Obtain the completed form and standard impression 2167
sheet from each applicant and employee; 2168

(c) Forward the completed form and standard impression 2169
sheet to the superintendent at the time the chief administrator 2170
requests the criminal records check. 2171

(3) A home health agency shall pay to the bureau of 2172
criminal identification and investigation the fee prescribed 2173
pursuant to division (C) (3) of section 109.572 of the Revised 2174
Code for each criminal records check the agency requests under 2175
this section. A home health agency may charge an applicant a fee 2176
not exceeding the amount the agency pays to the bureau under 2177
this section if both of the following apply: 2178

(a) The home health agency notifies the applicant at the 2179
time of initial application for employment of the amount of the 2180
fee and that, unless the fee is paid, the applicant will not be 2181
considered for employment. 2182

(b) The medicaid program does not reimburse the home 2183
health agency for the fee it pays to the bureau under this 2184
section. 2185

(F) Divisions (C) to (E) of this section do not apply with 2186
regard to an applicant or employee if the applicant or employee 2187
is referred to a home health agency by an employment service 2188
that supplies full-time, part-time, or temporary staff for 2189
positions that involve providing direct care to an individual 2190
and both of the following apply: 2191

(1) The chief administrator of the home health agency 2192
receives from the employment service confirmation that a review 2193
of the databases listed in division (D) of this section was 2194
conducted with regard to the applicant or employee. 2195

(2) The chief administrator of the home health agency 2196
receives from the employment service, applicant, or employee a 2197
report of the results of a criminal records check of the 2198
applicant or employee that has been conducted by the 2199
superintendent within the one-year period immediately preceding 2200

the following: 2201

(a) In the case of an applicant, the date of the 2202
applicant's referral by the employment service to the home 2203
health agency; 2204

(b) In the case of an employee, the date by which the home 2205
health agency would otherwise have to request a criminal records 2206
check of the employee under division (E) of this section. 2207

(G) (1) A home health agency may employ conditionally an 2208
applicant for whom a criminal records check request is required 2209
by this section before obtaining the results of the criminal 2210
records check if the agency is not prohibited by division (B) of 2211
this section from employing the applicant in a position that 2212
involves providing direct care to an individual and either of 2213
the following applies: 2214

(a) The chief administrator of the home health agency 2215
requests the criminal records check in accordance with division 2216
(E) of this section not later than five business days after the 2217
applicant begins conditional employment. 2218

(b) The applicant is referred to the home health agency by 2219
an employment service, the employment service or the applicant 2220
provides the chief administrator of the agency a letter that is 2221
on the letterhead of the employment service, the letter is dated 2222
and signed by a supervisor or another designated official of the 2223
employment service, and the letter states all of the following: 2224

(i) That the employment service has requested the 2225
superintendent to conduct a criminal records check regarding the 2226
applicant; 2227

(ii) That the requested criminal records check is to 2228
include a determination of whether the applicant has been 2229

convicted of, pleaded guilty to, or been found eligible for 2230
intervention in lieu of conviction for a disqualifying offense; 2231

(iii) That the employment service has not received the 2232
results of the criminal records check as of the date set forth 2233
on the letter; 2234

(iv) That the employment service promptly will send a copy 2235
of the results of the criminal records check to the chief 2236
administrator of the home health agency when the employment 2237
service receives the results. 2238

(2) If a home health agency employs an applicant 2239
conditionally pursuant to division (G) (1) (b) of this section, 2240
the employment service, on its receipt of the results of the 2241
criminal records check, promptly shall send a copy of the 2242
results to the chief administrator of the agency. 2243

(3) A home health agency that employs an applicant 2244
conditionally pursuant to division (G) (1) (a) or (b) of this 2245
section shall terminate the applicant's employment if the 2246
results of the criminal records check, other than the results of 2247
any request for information from the federal bureau of 2248
investigation, are not obtained within the period ending sixty 2249
days after the date the request for the criminal records check 2250
is made. Regardless of when the results of the criminal records 2251
check are obtained, if the results indicate that the applicant 2252
has been convicted of, pleaded guilty to, or been found eligible 2253
for intervention in lieu of conviction for a disqualifying 2254
offense, the home health agency shall terminate the applicant's 2255
employment unless circumstances specified in rules adopted under 2256
this section that permit the agency to employ the applicant 2257
exist and the agency chooses to employ the applicant. 2258
Termination of employment under this division shall be 2259

considered just cause for discharge for purposes of division (D) 2260
(2) of section 4141.29 of the Revised Code if the applicant 2261
makes any attempt to deceive the home health agency about the 2262
applicant's criminal record. 2263

(H) The report of any criminal records check conducted by 2264
the bureau of criminal identification and investigation in 2265
accordance with section 109.572 of the Revised Code and pursuant 2266
to a request made under this section is not a public record for 2267
the purposes of section 149.43 of the Revised Code and shall not 2268
be made available to any person other than the following: 2269

(1) The applicant or employee who is the subject of the 2270
criminal records check or the applicant's or employee's 2271
representative; 2272

(2) The home health agency requesting the criminal records 2273
check or its representative; 2274

(3) The administrator of any other facility, agency, or 2275
program that provides direct care to individuals that is owned 2276
or operated by the same entity that owns or operates the home 2277
health agency that requested the criminal records check; 2278

(4) The employment service that requested the criminal 2279
records check; 2280

(5) The director of health and the staff of the department 2281
of health who monitor a home health agency's compliance with 2282
this section; 2283

(6) The director of aging or the director's designee if 2284
either of the following apply: 2285

(a) In the case of a criminal records check requested by a 2286
home health agency, the home health agency also is a community- 2287

based long-term care provider or community-based long-term care 2288
subcontractor; 2289

(b) In the case of a criminal records check requested by 2290
an employment service, the employment service makes the request 2291
for an applicant or employee the employment service refers to a 2292
home health agency that also is a community-based long-term care 2293
provider or community-based long-term care subcontractor. 2294

(7) The medicaid director and the staff of the department 2295
of medicaid who are involved in the administration of the 2296
medicaid program if either of the following apply: 2297

(a) In the case of a criminal records check requested by a 2298
home health agency, the home health agency also is a waiver 2299
agency; 2300

(b) In the case of a criminal records check requested by 2301
an employment service, the employment service makes the request 2302
for an applicant or employee the employment service refers to a 2303
home health agency that also is a waiver agency. 2304

(8) Any court, hearing officer, or other necessary 2305
individual involved in a case dealing with any of the following: 2306

(a) A denial of employment of the applicant or employee; 2307

(b) Employment or unemployment benefits of the applicant 2308
or employee; 2309

(c) A civil or criminal action regarding the medicaid 2310
program. 2311

(I) In a tort or other civil action for damages that is 2312
brought as the result of an injury, death, or loss to person or 2313
property caused by an applicant or employee who a home health 2314
agency employs in a position that involves providing direct care 2315

to an individual, all of the following shall apply: 2316

(1) If the home health agency employed the applicant or 2317
employee in good faith and reasonable reliance on the report of 2318
a criminal records check requested under this section, the 2319
agency shall not be found negligent solely because of its 2320
reliance on the report, even if the information in the report is 2321
determined later to have been incomplete or inaccurate. 2322

(2) If the home health agency employed the applicant in 2323
good faith on a conditional basis pursuant to division (G) of 2324
this section, the agency shall not be found negligent solely 2325
because it employed the applicant prior to receiving the report 2326
of a criminal records check requested under this section. 2327

(3) If the home health agency in good faith employed the 2328
applicant or employee according to the personal character 2329
standards established in rules adopted under this section, the 2330
agency shall not be found negligent solely because the applicant 2331
or employee had been convicted of, pleaded guilty to, or been 2332
found eligible for intervention in lieu of conviction for a 2333
disqualifying offense. 2334

(J) The director of health shall adopt rules in accordance 2335
with Chapter 119. of the Revised Code to implement this section. 2336

(1) The rules may do the following: 2337

(a) Require employees to undergo database reviews and 2338
criminal records checks under this section; 2339

(b) If the rules require employees to undergo database 2340
reviews and criminal records checks under this section, exempt 2341
one or more classes of employees from the requirements; 2342

(c) For the purpose of division (D) (7) of this section, 2343

specify other databases that are to be checked as part of a 2344
database review conducted under this section. 2345

(2) The rules shall specify all of the following: 2346

(a) The procedures for conducting database reviews under 2347
this section; 2348

(b) If the rules require employees to undergo database 2349
reviews and criminal records checks under this section, the 2350
times at which the database reviews and criminal records checks 2351
are to be conducted; 2352

(c) If the rules specify other databases to be checked as 2353
part of the database reviews, the circumstances under which a 2354
home health agency is prohibited from employing an applicant or 2355
continuing to employ an employee who is found by a database 2356
review to be included in one or more of those databases; 2357

(d) Circumstances under which a home health agency may 2358
employ an applicant or employee who is found by a criminal 2359
records check required by this section to have been convicted 2360
of, pleaded guilty to, or been found eligible for intervention 2361
in lieu of conviction for a disqualifying offense but meets 2362
personal character standards. 2363

Sec. 3712.01. As used in this chapter: 2364

(A) "Hospice care program" means a coordinated program of 2365
home, outpatient, and inpatient care and services that is 2366
operated by a person or public agency and that provides the 2367
following care and services to hospice patients, including 2368
services as indicated below to hospice patients' families, 2369
through a medically directed interdisciplinary team, under 2370
interdisciplinary plans of care established pursuant to section 2371
3712.06 of the Revised Code, in order to meet the physical, 2372

psychological, social, spiritual, and other special needs that 2373
are experienced during the final stages of illness, dying, and 2374
bereavement: 2375

(1) Nursing care by or under the supervision of a 2376
registered nurse; 2377

(2) Physical, occupational, or speech or language therapy, 2378
unless waived by the department of health pursuant to rules 2379
adopted under division (A) of section 3712.03 of the Revised 2380
Code; 2381

(3) Medical social services by a social worker under the 2382
direction of a physician; 2383

(4) Services of a home health aide; 2384

(5) Medical supplies, including drugs and biologicals, and 2385
the use of medical appliances; 2386

(6) Physician's services; 2387

(7) Short-term inpatient care, including both palliative 2388
and respite care and procedures; 2389

(8) Counseling for hospice patients and hospice patients' 2390
families; 2391

(9) Services of volunteers under the direction of the 2392
provider of the hospice care program; 2393

(10) Bereavement services for hospice patients' families. 2394

"Hospice care program" does not include a palliative care 2395
facility or pediatric respite care program. 2396

(B) "Hospice patient" means a patient, other than a 2397
pediatric respite care patient, who has been diagnosed as 2398
terminally ill, has an anticipated life expectancy of six months 2399

or less, and has voluntarily requested and is receiving care 2400
from a person or public agency licensed under this chapter to 2401
provide a hospice care program. 2402

(C) "Hospice patient's family" means a hospice patient's 2403
immediate family members, including a spouse, brother, sister, 2404
child, or parent, and any other relative or individual who has 2405
significant personal ties to the patient and who is designated 2406
as a member of the patient's family by mutual agreement of the 2407
patient, the relative or individual, and the patient's 2408
interdisciplinary team. 2409

(D) "Interdisciplinary team" means a working unit composed 2410
of professional and lay persons that includes at least a 2411
physician, a registered nurse, a social worker, a member of the 2412
clergy or a counselor, and a volunteer. 2413

(E) "Palliative care" means treatment for a patient with a 2414
serious, chronic, or life-threatening illness directed at 2415
controlling pain, relieving other symptoms, and enhancing the 2416
quality of life of the patient and the patient's family, 2417
particularly with psychosocial support and medical decision 2418
guidance, rather than treatment for the purpose of cure. Nothing 2419
in this ~~section~~ chapter shall be interpreted to mean that 2420
palliative care can be provided only in a palliative care 2421
facility or as a component of a hospice care program or 2422
pediatric respite care program. 2423

(F) "Physician" means a person authorized under Chapter 2424
4731. of the Revised Code to practice medicine and surgery or 2425
osteopathic medicine and surgery. 2426

(G) "Attending physician" means the physician identified 2427
by the hospice patient, pediatric respite care patient, hospice 2428

patient's family, or pediatric respite care patient's family as 2429
having primary responsibility for the medical care of the 2430
hospice patient or pediatric respite care patient. 2431

(H) "Registered nurse" means a person registered under 2432
Chapter 4723. of the Revised Code to practice professional 2433
nursing. 2434

(I) "Social worker" means a person licensed under Chapter 2435
4757. of the Revised Code to practice as a social worker or 2436
independent social worker. 2437

(J) "Pediatric respite care program" means a program 2438
operated by a person or public agency that provides inpatient 2439
respite care and related services, including all of the 2440
following services, only to pediatric respite care patients and, 2441
as indicated below, pediatric respite care patients' families, 2442
in order to meet the physical, psychological, social, spiritual, 2443
and other special needs that are experienced during or leading 2444
up to the final stages of illness, dying, and bereavement: 2445

(1) Short-term inpatient care, including both palliative 2446
and respite care and procedures; 2447

(2) Nursing care by or under the supervision of a 2448
registered nurse; 2449

(3) Physician's services; 2450

(4) Medical social services by a social worker under the 2451
direction of a physician; 2452

(5) Medical supplies, including drugs and biologicals, and 2453
the use of medical appliances; 2454

(6) Counseling for pediatric respite care patients and 2455
pediatric respite care patients' families; 2456

(7) Bereavement services for respite care patients' families. 2457
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"Pediatric respite care program" does not include a hospice care program or palliative care facility. 2459
2460

(K) "Pediatric respite care patient" means a patient, other than a hospice patient or palliative care patient, who is less than twenty-seven years of age and to whom all of the following conditions apply: 2461
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(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. 2465
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(2) The diagnosis described in division (K) (1) of this section occurred while the patient was less than eighteen years of age. 2470
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(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. 2473
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(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. 2476
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(M) "Palliative care facility" means a facility operated by a person or public agency that provides inpatient palliative care on a continuous basis, twenty-four hours a day and seven 2483
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days a week, the medical components of which are under the 2486
direction of a physician; 2487

(N) "Palliative care patient" means a patient who has 2488
voluntarily requested and is receiving care from a person or 2489
public agency licensed under this chapter to operate a 2490
palliative care facility. 2491

Sec. 3712.032. (A) In accordance with Chapter 119. of the 2492
Revised Code, the director of health shall adopt rules that do 2493
all of the following: 2494

(1) Subject to division (B)(1) of this section, provide 2495
for the licensing of persons or public agencies operating 2496
palliative care facilities within this state by the department 2497
of health and for the suspension and revocation of licenses; 2498

(2) Establish a license fee and license renewal fee for 2499
palliative care facilities, neither of which shall, except as 2500
provided in division (C) of this section, exceed six hundred 2501
dollars. The fees shall cover the three-year period during which 2502
an existing license is valid as provided in division (B) of 2503
section 3712.042 of the Revised Code. 2504

(3) Establish an inspection fee not to exceed, except as 2505
provided in division (C) of this section, one thousand seven 2506
hundred fifty dollars; 2507

(4) Subject to division (B)(2) of this section, establish 2508
requirements for palliative care facilities and services; 2509

(5) Provide for the granting of licenses to operate 2510
palliative care facilities to persons and public agencies that 2511
are accredited or certified to operate such facilities by an 2512
entity whose standards for accreditation or certification equal 2513
or exceed those provided for licensure under this chapter and 2514

<u>rules adopted under it;</u>	2515
<u>(6) Establish guidelines for quality assessment and performance improvement programs administered by palliative care facilities;</u>	2516 2517 2518
<u>(7) Establish interpretive guidelines for each rule adopted under divisions (A) (1) to (6) of this section.</u>	2519 2520
<u>(B) (1) The rules adopted under division (A) (1) of this section shall require a palliative care facility to be inspected as a condition of initial licensure and not less than every three years thereafter while the license is maintained.</u>	2521 2522 2523 2524
<u>(2) All of the following apply to the rules adopted under division (A) (4) of this section:</u>	2525 2526
<u>(a) The rules shall establish minimum standards governing a facility's physical layout and equipment, patient assessments, and patient care planning.</u>	2527 2528 2529
<u>(b) The rules shall specify the number of qualified staff, including physicians, registered nurses, social workers, and spiritual or other counselors, that must be on duty twenty-four hours a day and seven days a week. The number specified shall be based on the number of patients the facility is able to admit and patient acuity levels.</u>	2530 2531 2532 2533 2534 2535
<u>(c) The rules shall specify that the medical components of the provision of palliative care must be under the direction of a physician.</u>	2536 2537 2538
<u>(d) The rules shall specify that a palliative care facility must provide all of the following to meet the physical, psychological, social, spiritual, and other needs of a palliative care patient:</u>	2539 2540 2541 2542

<u>(i) Nursing care by or under the supervision of a</u>	2543
<u>registered nurse;</u>	2544
<u>(ii) Medical supplies, appliances, and drugs;</u>	2545
<u>(iii) Coordinated treatment planning that includes a</u>	2546
<u>central clinical record for each patient, a plan of care for</u>	2547
<u>each patient, and a procedure that addresses participation in</u>	2548
<u>decision-making by the patient and the patient's family;</u>	2549
<u>(iv) Medical-social services by a social worker or</u>	2550
<u>independent social worker who works under a physician's</u>	2551
<u>supervision;</u>	2552
<u>(v) Psychosocial support services.</u>	2553
<u>(C) Subject to the approval of the controlling board, the</u>	2554
<u>director of health may establish fees in excess of the maximum</u>	2555
<u>amounts specified in this section, provided that the fees do not</u>	2556
<u>exceed those amounts by greater than fifty per cent.</u>	2557
<u>(D) The department of health shall:</u>	2558
<u>(1) Grant, suspend, and revoke licenses for palliative</u>	2559
<u>care facilities in accordance with this chapter and rules</u>	2560
<u>adopted under it;</u>	2561
<u>(2) Make such inspections as are necessary, including</u>	2562
<u>those required by rules adopted in accordance with division (B)</u>	2563
<u>(1) of this section, to determine whether palliative care</u>	2564
<u>facilities and services meet the requirements of this chapter</u>	2565
<u>and rules adopted under it; and</u>	2566
<u>(3) Implement and enforce provisions of this chapter and</u>	2567
<u>rules adopted under it as such provisions apply to palliative</u>	2568
<u>care facilities.</u>	2569

Sec. 3712.042. Every person or public agency that proposes 2570
to operate a palliative care facility shall apply to the 2571
department of health for a license. Application shall be made on 2572
forms prescribed and provided by the department, shall include 2573
such information as the department requires, and shall be 2574
accompanied by the license fee established in rules adopted by 2575
the director of health under division (A) of section 3712.032 of 2576
the Revised Code. 2577

The department shall grant a license to the applicant if 2578
the applicant is in compliance with this chapter and rules 2579
adopted under it. 2580

(B) A license granted under this section shall be valid 2581
for three years. Application for renewal of a license shall be 2582
made at least ninety days before the expiration of the license 2583
in the same manner as for an initial license. The department 2584
shall renew the license if the applicant meets the requirements 2585
of this chapter and rules adopted under it. 2586

(C) Subject to Chapter 119. of the Revised Code, the 2587
department may suspend or revoke a license if the licensee made 2588
any material representation in the application for the license 2589
or no longer meets the requirements of this chapter or rules 2590
adopted under it. 2591

Sec. 3712.052. (A) As used in this division, "person" does 2592
not include a member of an interdisciplinary team, as defined in 2593
section 3712.01 of the Revised Code, or any individual who is 2594
employed by a person or public agency licensed under section 2595
3712.042 of the Revised Code. 2596

Except as provided in division (B) of this section, no 2597
person or public agency, other than a person or public agency 2598

licensed pursuant to section 3712.042 of the Revised Code, shall 2599
hold itself as operating a palliative care facility or operate a 2600
palliative care facility. 2601

(B) Division (A) of this section does not apply to any of 2602
the following: 2603

(1) A hospital; 2604

(2) A nursing home or residential care facility, as those 2605
terms are defined in section 3721.01 of the Revised Code; 2606

(3) A home health agency; 2607

(4) A regional, state, or national nonprofit organization 2608
whose members are operators of palliative care facilities, 2609
individuals interested in palliative care facilities, or both, 2610
as long as the organization does not provide or represent that 2611
it operates a palliative care facility; 2612

(5) A person or government entity certified under section 2613
5123.161 of the Revised Code as a supported living provider; 2614

(6) A residential facility licensed under section 5123.19 2615
of the Revised Code; 2616

(7) A respite care home certified under section 5126.05 of 2617
the Revised Code; 2618

(8) A person providing respite care under a family support 2619
services program established under section 5126.11 of the 2620
Revised Code; 2621

(9) A person or government entity providing respite care 2622
under a medicaid waiver component that the department of 2623
developmental disabilities administers pursuant to section 2624
5166.21 of the Revised Code; 2625

(10) A hospice care program licensed under section 3712.04 2626
of the Revised Code; 2627

(11) A terminal care facility for the homeless that has 2628
entered into an agreement under section 3712.07 of the Revised 2629
Code; 2630

(12) A pediatric respite care program licensed under 2631
section 3712.041 of the Revised Code. 2632

(C) The department of health shall petition the court of 2633
common pleas of any county in which a person or public agency, 2634
without a license granted under section 3712.042 of the Revised 2635
Code, is holding itself out as operating a palliative care 2636
facility, is operating a palliative care facility, or is 2637
representing a health program or agency as a palliative care 2638
facility, for an order enjoining that person or public agency 2639
from conducting those activities without a license. The court 2640
has jurisdiction to grant injunctive relief on a showing that 2641
the respondent named in the petition is conducting those 2642
activities without a license. 2643

Any person or public agency may request the department to 2644
petition the court for injunctive relief under this division, 2645
and the department shall do so if it determines that the person 2646
or public agency named in the request is violating division (A) 2647
of this section. 2648

Sec. 3712.063. Notwithstanding any provision of this 2649
chapter specifying that a hospice care program may provide care 2650
and services only to hospice patients, a hospice care program 2651
licensed under section 3712.04 of the Revised Code that operates 2652
an inpatient facility or unit in which services described in 2653
division (A) of section 3712.01 of the Revised Code are provided 2654

may provide palliative care to any patient. 2655

Sec. 3712.09. (A) As used in this section: 2656

(1) "Applicant" means a person who is under final 2657
consideration for employment with a hospice care program ~~or,~~ 2658
pediatric respite care program, or palliative care facility in a 2659
full-time, part-time, or temporary position that involves 2660
providing direct care to an older adult ~~or,~~ pediatric respite 2661
care patient, or palliative care patient. "Applicant" does not 2662
include a person who provides direct care as a volunteer without 2663
receiving or expecting to receive any form of remuneration other 2664
than reimbursement for actual expenses. 2665

(2) "Criminal records check" has the same meaning as in 2666
section 109.572 of the Revised Code. 2667

(3) "Older adult" means a person age sixty or older. 2668

(B) (1) Except as provided in division (I) of this section, 2669
the chief administrator of a hospice care program ~~or,~~ pediatric 2670
respite care program, or palliative care facility shall request 2671
that the superintendent of the bureau of criminal identification 2672
and investigation conduct a criminal records check of each 2673
applicant. If an applicant for whom a criminal records check 2674
request is required under this division does not present proof 2675
of having been a resident of this state for the five-year period 2676
immediately prior to the date the criminal records check is 2677
requested or provide evidence that within that five-year period 2678
the superintendent has requested information about the applicant 2679
from the federal bureau of investigation in a criminal records 2680
check, the chief administrator shall request that the 2681
superintendent obtain information from the federal bureau of 2682
investigation as part of the criminal records check of the 2683

applicant. Even if an applicant for whom a criminal records 2684
check request is required under this division presents proof of 2685
having been a resident of this state for the five-year period, 2686
the chief administrator may request that the superintendent 2687
include information from the federal bureau of investigation in 2688
the criminal records check. 2689

(2) A person required by division (B) (1) of this section 2690
to request a criminal records check shall do both of the 2691
following: 2692

(a) Provide to each applicant for whom a criminal records 2693
check request is required under that division a copy of the form 2694
prescribed pursuant to division (C) (1) of section 109.572 of the 2695
Revised Code and a standard fingerprint impression sheet 2696
prescribed pursuant to division (C) (2) of that section, and 2697
obtain the completed form and impression sheet from the 2698
applicant; 2699

(b) Forward the completed form and impression sheet to the 2700
superintendent of the bureau of criminal identification and 2701
investigation. 2702

(3) An applicant provided the form and fingerprint 2703
impression sheet under division (B) (2) (a) of this section who 2704
fails to complete the form or provide fingerprint impressions 2705
shall not be employed in any position for which a criminal 2706
records check is required by this section. 2707

(C) (1) Except as provided in rules adopted by the director 2708
of health in accordance with division (F) of this section and 2709
subject to division (C) (2) of this section, no hospice care 2710
program ~~or~~, pediatric respite care program, or palliative care 2711
facility shall employ a person in a position that involves 2712

providing direct care to an older adult ~~or,~~ pediatric respite
care patient, or palliative care patient if the person has been
convicted of or pleaded guilty to any of the following:

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

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

(2) (a) A hospice care program ~~or,~~ pediatric respite care
program, or palliative care facility may employ conditionally an
applicant for whom a criminal records check request is required
under division (B) of this section prior to obtaining the
results of a criminal records check regarding the individual,
provided that the program or facility shall request a criminal
records check regarding the individual in accordance with
division (B) (1) of this section not later than five business
days after the individual begins conditional employment. In the
circumstances described in division (I) (2) of this section, a
hospice care program ~~or,~~ pediatric respite care program, or
palliative care facility may employ conditionally an applicant
who has been referred to the ~~hospice care program or pediatric~~
~~respite care program~~ facility by an employment service that

supplies full-time, part-time, or temporary staff for positions 2743
involving the direct care of older adults ~~or,~~ pediatric respite 2744
care patients, or palliative care patients and for whom, 2745
pursuant to that division, a criminal records check is not 2746
required under division (B) of this section. 2747

(b) A hospice care program ~~or,~~ pediatric respite care 2748
program, or palliative care facility that employs an individual 2749
conditionally under authority of division (C) (2) (a) of this 2750
section shall terminate the individual's employment if the 2751
results of the criminal records check requested under division 2752
(B) of this section or described in division (I) (2) of this 2753
section, other than the results of any request for information 2754
from the federal bureau of investigation, are not obtained 2755
within the period ending thirty days after the date the request 2756
is made. Regardless of when the results of the criminal records 2757
check are obtained, if the results indicate that the individual 2758
has been convicted of or pleaded guilty to any of the offenses 2759
listed or described in division (C) (1) of this section, the 2760
program or facility shall terminate the individual's employment 2761
unless the program or facility chooses to employ the individual 2762
pursuant to division (F) of this section. Termination of 2763
employment under this division shall be considered just cause 2764
for discharge for purposes of division (D) (2) of section 4141.29 2765
of the Revised Code if the individual makes any attempt to 2766
deceive the program about the individual's criminal record. 2767

(D) (1) Each hospice care program ~~or,~~ pediatric respite 2768
care program, or palliative care facility shall pay to the 2769
bureau of criminal identification and investigation the fee 2770
prescribed pursuant to division (C) (3) of section 109.572 of the 2771
Revised Code for each criminal records check conducted pursuant 2772
to a request made under division (B) of this section. 2773

(2) A hospice care program ~~or,~~ pediatric respite care 2774
program, or palliative care facility may charge an applicant a 2775
fee not exceeding the amount the program pays under division (D) 2776
(1) of this section. A program or facility may collect a fee 2777
only if both of the following apply: 2778

(a) The program or facility notifies the person at the 2779
time of initial application for employment of the amount of the 2780
fee and that, unless the fee is paid, the person will not be 2781
considered for employment; 2782

(b) The medicaid program does not reimburse the program or 2783
facility the fee it pays under division (D) (1) of this section. 2784

(E) The report of a criminal records check conducted 2785
pursuant to a request made under this section is not a public 2786
record for the purposes of section 149.43 of the Revised Code 2787
and shall not be made available to any person other than the 2788
following: 2789

(1) The individual who is the subject of the criminal 2790
records check or the individual's representative; 2791

(2) The chief administrator of the program or facility 2792
requesting the criminal records check or the administrator's 2793
representative; 2794

(3) The administrator of any other facility, agency, or 2795
program that provides direct care to older adults ~~or,~~ pediatric 2796
respite care patients, or palliative care patients that is owned 2797
or operated by the same entity that owns or operates the hospice 2798
care program ~~or,~~ pediatric respite care program, or palliative 2799
care facility; 2800

(4) A court, hearing officer, or other necessary 2801
individual involved in a case dealing with a denial of 2802

employment of the applicant or dealing with employment or 2803
unemployment benefits of the applicant; 2804

(5) Any person to whom the report is provided pursuant to, 2805
and in accordance with, division (I)(1) or (2) of this section. 2806

(F) The director of health shall adopt rules in accordance 2807
with Chapter 119. of the Revised Code to implement this section. 2808
The rules shall specify circumstances under which a hospice care 2809
program ~~or~~, pediatric respite care program, or palliative care 2810
facility may employ a person who has been convicted of or 2811
pleaded guilty to an offense listed or described in division (C) 2812
(1) of this section but meets personal character standards set 2813
by the director. 2814

(G) The chief administrator of a hospice care program ~~or~~, 2815
pediatric respite care program, or palliative care facility 2816
shall inform each individual, at the time of initial application 2817
for a position that involves providing direct care to an older 2818
adult ~~or~~, pediatric respite care patient, or palliative care 2819
patient, that the individual is required to provide a set of 2820
fingerprint impressions and that a criminal records check is 2821
required to be conducted if the individual comes under final 2822
consideration for employment. 2823

(H) In a tort or other civil action for damages that is 2824
brought as the result of an injury, death, or loss to person or 2825
property caused by an individual who a hospice care program ~~or~~, 2826
pediatric respite care program, or palliative care facility 2827
employs in a position that involves providing direct care to 2828
older adults ~~or~~, pediatric respite care patients, or palliative 2829
care patients, all of the following shall apply: 2830

(1) If the program or facility employed the individual in 2831

good faith and reasonable reliance on the report of a criminal 2832
records check requested under this section, the program or 2833
facility shall not be found negligent solely because of its 2834
reliance on the report, even if the information in the report is 2835
determined later to have been incomplete or inaccurate; 2836

(2) If the program or facility employed the individual in 2837
good faith on a conditional basis pursuant to division (C)(2) of 2838
this section, the program or facility shall not be found 2839
negligent solely because it employed the individual prior to 2840
receiving the report of a criminal records check requested under 2841
this section; 2842

(3) If the program or facility in good faith employed the 2843
individual according to the personal character standards 2844
established in rules adopted under division (F) of this section, 2845
the program or facility shall not be found negligent solely 2846
because the individual prior to being employed had been 2847
convicted of or pleaded guilty to an offense listed or described 2848
in division (C)(1) of this section. 2849

(I)(1) The chief administrator of a hospice care program 2850
~~or~~, pediatric respite care program, or palliative care facility 2851
is not required to request that the superintendent of the bureau 2852
of criminal identification and investigation conduct a criminal 2853
records check of an applicant if the applicant has been referred 2854
to the program by an employment service that supplies full-time, 2855
part-time, or temporary staff for positions involving the direct 2856
care of older adults~~or~~, pediatric respite care patients, or 2857
palliative care patients and both of the following apply: 2858

(a) The chief administrator receives from the employment 2859
service or the applicant a report of the results of a criminal 2860
records check regarding the applicant that has been conducted by 2861

the superintendent within the one-year period immediately 2862
preceding the applicant's referral; 2863

(b) The report of the criminal records check demonstrates 2864
that the person has not been convicted of or pleaded guilty to 2865
an offense listed or described in division (C)(1) of this 2866
section, or the report demonstrates that the person has been 2867
convicted of or pleaded guilty to one or more of those offenses, 2868
but the hospice care program ~~or,~~ pediatric respite care 2869
program, or palliative care facility chooses to employ the 2870
individual pursuant to division (F) of this section. 2871

(2) The chief administrator of a hospice care program ~~or,~~ 2872
pediatric respite care program, or palliative care facility is 2873
not required to request that the superintendent of the bureau of 2874
criminal identification and investigation conduct a criminal 2875
records check of an applicant and may employ the applicant 2876
conditionally as described in this division, if the applicant 2877
has been referred to the program or facility by an employment 2878
service that supplies full-time, part-time, or temporary staff 2879
for positions involving the direct care of older adults ~~or,~~ 2880
pediatric respite care patients, or palliative care patients and 2881
if the chief administrator receives from the employment service 2882
or the applicant a letter from the employment service that is on 2883
the letterhead of the employment service, dated, and signed by a 2884
supervisor or another designated official of the employment 2885
service and that states that the employment service has 2886
requested the superintendent to conduct a criminal records check 2887
regarding the applicant, that the requested criminal records 2888
check will include a determination of whether the applicant has 2889
been convicted of or pleaded guilty to any offense listed or 2890
described in division (C)(1) of this section, that, as of the 2891
date set forth on the letter, the employment service had not 2892

received the results of the criminal records check, and that, 2893
when the employment service receives the results of the criminal 2894
records check, it promptly will send a copy of the results to 2895
the hospice care program ~~or~~, pediatric respite care program, or 2896
palliative care facility. If a ~~hospice care program or pediatric~~ 2897
~~respite care program~~ facility employs an applicant conditionally 2898
in accordance with this division, the employment service, upon 2899
its receipt of the results of the criminal records check, 2900
promptly shall send a copy of the results to the ~~hospice care~~ 2901
~~program or pediatric respite care program~~ facility, and division 2902
(C) (2) (b) of this section applies regarding the conditional 2903
employment. 2904

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 2905
and 3721.99 of the Revised Code: 2906

(1) (a) "Home" means an institution, residence, or facility 2907
that provides, for a period of more than twenty-four hours, 2908
whether for a consideration or not, accommodations to three or 2909
more unrelated individuals who are dependent upon the services 2910
of others, including a nursing home, residential care facility, 2911
home for the aging, and a veterans' home operated under Chapter 2912
5907. of the Revised Code. 2913

(b) "Home" also means both of the following: 2914

(i) Any facility that a person, as defined in section 2915
3702.51 of the Revised Code, proposes for certification as a 2916
skilled nursing facility or nursing facility under Title XVIII 2917
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 2918
U.S.C.A. 301, as amended, and for which a certificate of need, 2919
other than a certificate to recategorize hospital beds as 2920
described in section 3702.521 of the Revised Code or division 2921
(R) (7) (d) of the version of section 3702.51 of the Revised Code 2922

in effect immediately prior to April 20, 1995, has been granted	2923
to the person under sections 3702.51 to 3702.62 of the Revised	2924
Code after August 5, 1989;	2925
(ii) A county home or district home that is or has been	2926
licensed as a residential care facility.	2927
(c) "Home" does not mean any of the following:	2928
(i) Except as provided in division (A)(1)(b) of this	2929
section, a public hospital or hospital as defined in section	2930
3701.01 or 5122.01 of the Revised Code;	2931
(ii) A residential facility as defined in section 5119.34	2932
of the Revised Code;	2933
(iii) A residential facility as defined in section 5123.19	2934
of the Revised Code;	2935
(iv) A community addiction services provider as defined in	2936
section 5119.01 of the Revised Code;	2937
(v) A facility licensed to provide methadone treatment	2938
under section 5119.391 of the Revised Code;	2939
(vi) A facility providing services under contract with the	2940
department of developmental disabilities under section 5123.18	2941
of the Revised Code;	2942
(vii) A facility operated by a hospice care program	2943
licensed under section 3712.04 of the Revised Code that is used	2944
exclusively for care of hospice patients;	2945
(viii) A facility operated by a pediatric respite care	2946
program licensed under section 3712.041 of the Revised Code that	2947
is used exclusively for care of pediatric respite care patients;	2948
(ix) <u>A palliative care facility licensed under section</u>	2949

<u>3712.042 of the Revised Code;</u>	2950
(x) A facility, infirmary, or other entity that is	2951
operated by a religious order, provides care exclusively to	2952
members of religious orders who take vows of celibacy and live	2953
by virtue of their vows within the orders as if related, and	2954
does not participate in the medicare program or the medicaid	2955
program if on January 1, 1994, the facility, infirmary, or	2956
entity was providing care exclusively to members of the	2957
religious order;	2958
(x) (xi) A county home or district home that has never	2959
been licensed as a residential care facility.	2960
(2) "Unrelated individual" means one who is not related to	2961
the owner or operator of a home or to the spouse of the owner or	2962
operator as a parent, grandparent, child, grandchild, brother,	2963
sister, niece, nephew, aunt, uncle, or as the child of an aunt	2964
or uncle.	2965
(3) "Mental impairment" does not mean mental illness, as	2966
defined in section 5122.01 of the Revised Code, or developmental	2967
disability, as defined in section 5123.01 of the Revised Code.	2968
(4) "Skilled nursing care" means procedures that require	2969
technical skills and knowledge beyond those the untrained person	2970
possesses and that are commonly employed in providing for the	2971
physical, mental, and emotional needs of the ill or otherwise	2972
incapacitated. "Skilled nursing care" includes, but is not	2973
limited to, the following:	2974
(a) Irrigations, catheterizations, application of	2975
dressings, and supervision of special diets;	2976
(b) Objective observation of changes in the patient's	2977
condition as a means of analyzing and determining the nursing	2978

care required and the need for further medical diagnosis and treatment;	2979 2980
(c) Special procedures contributing to rehabilitation;	2981
(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;	2982 2983 2984 2985
(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.	2986 2987 2988
(5) (a) "Personal care services" means services including, but not limited to, the following:	2989 2990
(i) Assisting residents with activities of daily living;	2991
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;	2992 2993 2994
(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 adopted under section 3721.04 of the Revised Code.	2995 2996 2997 2998
(b) "Personal care services" does not include "skilled nursing care" as defined in division (A) (4) of this section. A facility need not provide more than one of the services listed in division (A) (5) (a) of this section to be considered to be providing personal care services.	2999 3000 3001 3002 3003
(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of	3004 3005 3006

individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

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

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

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

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

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

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

(B) The director of health may further classify homes. For

the purposes of this chapter, any residence, institution, hotel, 3036
congregate housing project, or similar facility that meets the 3037
definition of a home under this section is such a home 3038
regardless of how the facility holds itself out to the public. 3039

(C) For purposes of this chapter, personal care services 3040
or skilled nursing care shall be considered to be provided by a 3041
facility if they are provided by a person employed by or 3042
associated with the facility or by another person pursuant to an 3043
agreement to which neither the resident who receives the 3044
services nor the resident's sponsor is a party. 3045

(D) Nothing in division (A) (4) of this section shall be 3046
construed to permit skilled nursing care to be imposed on an 3047
individual who does not require skilled nursing care. 3048

Nothing in division (A) (5) of this section shall be 3049
construed to permit personal care services to be imposed on an 3050
individual who is capable of performing the activity in question 3051
without assistance. 3052

(E) Division (A) (1) (c) ~~(ix)~~ (x) of this section does not 3053
prohibit a facility, infirmary, or other entity described in 3054
that division from seeking licensure under sections 3721.01 to 3055
3721.09 of the Revised Code or certification under Title XVIII 3056
or XIX of the "Social Security Act." However, such a facility, 3057
infirmary, or entity that applies for licensure or certification 3058
must meet the requirements of those sections or titles and the 3059
rules adopted under them and obtain a certificate of need from 3060
the director of health under section 3702.52 of the Revised 3061
Code. 3062

(F) Nothing in this chapter, or rules adopted pursuant to 3063
it, shall be construed as authorizing the supervision, 3064

regulation, or control of the spiritual care or treatment of 3065
residents or patients in any home who rely upon treatment by 3066
prayer or spiritual means in accordance with the creed or tenets 3067
of any recognized church or religious denomination. 3068

Sec. 3727.70. As used in this section and sections 3727.71 3069
to 3727.79 of the Revised Code: 3070

(A) "Admission" means a patient's admission to a hospital 3071
on an inpatient basis by a health care professional specified in 3072
division (B) (1) of section 3727.06 of the Revised Code. 3073

(B) "After-care" means assistance provided by a lay 3074
caregiver to a patient in the patient's residence after the 3075
patient's discharge and includes only the caregiving needs of 3076
the patient at the time of discharge. 3077

(C) "Discharge" means the discharge or release of a 3078
patient who has been admitted to a hospital on an inpatient 3079
basis from the hospital directly to the patient's residence. 3080
"Discharge" does not include the transfer of a patient to 3081
another facility or setting. 3082

(D) "Discharging health care professional" means a health 3083
care professional who is authorized by division (B) (1) of 3084
section 3727.06 of the Revised Code to admit a patient to a 3085
hospital and who has assumed responsibility for directing the 3086
creation of the patient's discharge plan under section 3727.75 3087
of the Revised Code. 3088

(E) "Guardian" has the same meaning as in section 2133.01 3089
of the Revised Code. 3090

(F) "Lay caregiver" means an adult designated under 3091
section 3727.71 of the Revised Code to provide after-care to a 3092
patient. 3093

(G) "Lay caregiver designation" means the designation of a lay caregiver for a patient as described in section 3727.71 of the Revised Code. 3094
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(H) (1) "Patient's residence" means either of the following: 3097
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(a) The dwelling that a patient or the patient's guardian considers to be the patient's home; 3099
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(b) The dwelling of a relative or other individual who has agreed to temporarily house the patient following discharge and who has communicated this fact to hospital staff. 3101
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(2) "Patient's residence" does not include any of the following: 3104
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(a) A hospital; 3106

(b) A nursing home, residential care facility, county home, or district home, as defined in section 3721.01 of the Revised Code; 3107
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(c) A veterans' home operated under Chapter 5907. of the Revised Code; 3110
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(d) A residential facility, as defined in section 5119.34 of the Revised Code; 3112
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(e) A residential facility, as defined in section 5123.19 of the Revised Code; 3114
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(f) A hospice care program, as defined in section 3712.01 of the Revised Code; 3116
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(g) A freestanding inpatient rehabilitation facility licensed under section 3702.30 of the Revised Code; 3118
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(h) Another facility similar to one specified in this 3120

division. 3121

Sec. 3727.71. (A) In the case of a patient who is at least 3122
fifty-five years of age and not unconscious or otherwise 3123
incapacitated at the time of admission, a hospital shall offer 3124
the patient or the patient's guardian an opportunity to 3125
designate a lay caregiver for the patient. The offer shall be 3126
made after the patient's admission and before the patient's 3127
discharge. 3128

(B) In the case of a patient who is at least fifty-five 3129
years of age and unconscious or otherwise incapacitated at the 3130
time of admission, a hospital shall offer the patient or the 3131
patient's guardian an opportunity to designate a lay caregiver 3132
for the patient. The offer shall be made after the patient 3133
regains consciousness or capacity and before the patient's 3134
discharge. 3135

Sec. 3727.72. (A) If a patient or guardian makes a lay 3136
caregiver designation, the hospital shall do both of the 3137
following: 3138

(1) To the extent the information is available, record in 3139
the patient's medical record the lay caregiver's name, address, 3140
telephone number, electronic mail address, and relationship to 3141
the patient; 3142

(2) Request from the patient or guardian consent to 3143
disclose the patient's medical information to the lay caregiver 3144
in accordance with hospital policy and state and federal law. 3145

(B) If a patient or guardian declines to make a lay 3146
caregiver designation, the hospital shall note that decision in 3147
the patient's medical record and have no other obligation under 3148
sections 3727.71 to 3727.79 of the Revised Code. 3149

Sec. 3727.73. A patient or guardian may revoke a lay caregiver designation at any time before the patient's discharge by communicating that intent to hospital staff. After revocation, a new lay caregiver designation may be completed in accordance with section 3727.71 of the Revised Code. 3150
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Sec. 3727.74. (A) Except as provided in division (B) of this section, a hospital that intends to discharge a patient, or transfer a patient to another hospital or facility, shall notify the patient's lay caregiver of that intent as soon as practicable. 3155
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(B) Division (A) of this section does not apply if the patient or guardian has not given the consent described in division (A) (2) of section 3727.72 of the Revised Code. 3160
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Sec. 3727.75. (A) A hospital that intends to discharge a patient shall, as soon as practicable, create a discharge plan in accordance with state and federal law and hospital policy and review that plan with the patient or the patient's guardian. If a lay caregiver designation has been made, the discharging health care professional has determined that the lay caregiver's participation in the review would be appropriate, and the lay caregiver is available within a reasonable amount of time, the hospital shall arrange for the lay caregiver to also participate in the review. The review shall be conducted in accordance with section 3727.76 of the Revised Code. 3163
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(B) (1) A discharge plan may include the following information: 3174
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(a) A description of the tasks that are necessary to facilitate the patient's transition from the hospital to the patient's residence; 3176
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(b) Contact information for the health care providers or providers of community or long-term care services that the hospital and the patient or guardian believe are necessary for successful implementation of the discharge plan. 3179
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(2) If a lay caregiver designation has been made and the discharging health care professional has determined that the lay caregiver is to have a role in the discharge plan, the discharge plan may include any of the following: 3183
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(a) The lay caregiver's name, address, telephone number, electronic mail address, and relationship to the patient, if available; 3187
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(b) A description of all after-care tasks to be performed by the lay caregiver, taking into account the lay caregiver's capability to perform such tasks; 3190
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(c) Any other information the hospital believes is necessary for successful implementation of the discharge plan. 3193
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(C) A discharging health care professional shall not be subject to criminal prosecution or professional disciplinary action, or be liable in a tort action or other civil action, for an event or occurrence that allegedly arises out of the health care professional's determination that a patient's lay caregiver should or should not participate in the review of the patient's discharge plan. 3195
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Sec. 3727.76. (A) The review of a discharge plan that has been created under section 3727.75 of the Revised Code shall be conducted in a manner that is culturally sensitive to each individual who participates in the review. In accordance with state and federal law and if appropriate, the hospital shall arrange for an interpreter to be present during the instruction. 3202
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(B) (1) The review described in division (A) of this 3208
section shall, subject to division (B) (2) of this section, 3209
include the following components: 3210

(a) If the discharging health care professional determines 3211
that it is appropriate, a live demonstration of each task 3212
described in the discharge plan performed by a hospital employee 3213
or an individual under contract with the hospital to provide the 3214
instruction; 3215

(b) An opportunity for each participant to ask questions 3216
and receive responses; 3217

(c) Any other component the hospital believes is necessary 3218
to ensure that each participant receives adequate instruction on 3219
the tasks described in the discharge plan. 3220

(2) It is the intent of the general assembly that 3221
execution of the components in division (B) (1) of this section 3222
not unreasonably delay a patient's discharge. 3223

(C) The hospital shall document information concerning the 3224
instruction provided under this section in the patient's medical 3225
record. The information shall include the date and time the 3226
instruction was provided and a description of the instruction 3227
content. 3228

Sec. 3727.77. (A) Sections 3727.70 to 3727.76 of the 3229
Revised Code do not require a patient or guardian to make a lay 3230
caregiver designation. 3231

(B) A lay caregiver designation does not obligate any 3232
individual to perform after-care. 3233

(C) A lay caregiver designation or the absence of one 3234
shall not interfere with, delay, or otherwise affect the 3235

provision of health care to the patient. 3236

Sec. 3727.78. It is the intent of the general assembly 3237
that sections 3727.70 to 3727.77 of the Revised Code not be 3238
construed to do any of the following: 3239

(A) Interfere with the authority of a patient's attorney- 3240
in-fact under sections 1337.11 to 1337.17 of the Revised Code or 3241
a patient's proxy under sections 2135.01 to 2135.14 of the 3242
Revised Code; 3243

(B) Create a right of action against a hospital or an 3244
employee, agent, or contractor of the hospital; 3245

(C) Create a liability for a hospital or an employee, 3246
agent, or contractor of the hospital; 3247

(D) Limit, impair, or supersede any right or remedy that a 3248
person has under any other statute, rule, regulation, or the 3249
common law of this state; 3250

(E) Alter the obligations of an insurer under a health 3251
insurance policy, contract, or plan. 3252

Sec. 3727.79. The department of health may adopt rules 3253
pursuant to Chapter 119. of the Revised Code as necessary to 3254
implement sections 3727.70 to 3727.78 of the Revised Code. 3255

Sec. 3795.01. As used in sections 3795.01, 3795.02, and 3256
3795.03 of the Revised Code: 3257

(A) "Assist suicide" or "assisting suicide" means 3258
knowingly doing either of the following, with the purpose of 3259
helping another person to commit or attempt suicide: 3260

(1) Providing the physical means by which the person 3261
commits or attempts to commit suicide; 3262

(2) Participating in a physical act by which the person commits or attempts to commit suicide.	3263 3264
(B) "Certified nurse practitioner," "certified nurse-midwife," and "clinical nurse specialist" have the same meanings as in section 4723.01 of the Revised Code.	3265 3266 3267
(C) "CPR" has the same meaning as in section 2133.21 of the Revised Code.	3268 3269
(D) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat a person's physical or mental condition.	3270 3271 3272
(E) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care.	3273 3274 3275
(F) "Health care facility" means any of the following:	3276
(1) A hospital;	3277
(2) A hospice care program, <u>palliative care facility</u> , or pediatric respite care program as defined in section 3712.01 of the Revised Code;	3278 3279 3280
(3) A nursing home;	3281
(4) A home health agency;	3282
(5) An intermediate care facility for individuals with intellectual disabilities.	3283 3284
(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	3285 3286 3287 3288 3289

physician, and administrators of health care facilities. 3290

(H) "Physician" means a person who is authorized under 3291
Chapter 4731. of the Revised Code to practice medicine and 3292
surgery or osteopathic medicine and surgery. 3293

Sec. 3795.03. Nothing in section 3795.01 ~~or,~~ 3795.02, or 3294
3795.04 of the Revised Code shall do any of the following: 3295

(A) Prohibit or preclude a physician, certified nurse 3296
practitioner, certified nurse-midwife, or clinical nurse 3297
specialist who carries out the responsibility to provide comfort 3298
care to a patient in good faith and while acting within the 3299
scope of the physician's or nurse's authority from prescribing, 3300
dispensing, administering, or causing to be administered any 3301
particular medical procedure, treatment, intervention, or other 3302
measure to the patient, including, but not limited to, 3303
prescribing, personally furnishing, administering, or causing to 3304
be administered by judicious titration or in another manner any 3305
form of medication, for the purpose of diminishing the patient's 3306
pain or discomfort and not for the purpose of postponing or 3307
causing the patient's death, even though the medical procedure, 3308
treatment, intervention, or other measure may appear to hasten 3309
or increase the risk of the patient's death; 3310

(B) Prohibit or preclude health care personnel acting 3311
under the direction of a person authorized to prescribe a 3312
patient's treatment and who carry out the responsibility to 3313
provide comfort care to the patient in good faith and while 3314
acting within the scope of their authority from dispensing, 3315
administering, or causing to be administered any particular 3316
medical procedure, treatment, intervention, or other measure to 3317
the patient, including, but not limited to, personally 3318
furnishing, administering, or causing to be administered by 3319

judicious titration or in another manner any form of medication, 3320
for the purpose of diminishing the patient's pain or discomfort 3321
and not for the purpose of postponing or causing the patient's 3322
death, even though the medical procedure, treatment, 3323
intervention, or other measure may appear to hasten or increase 3324
the risk of the patient's death; 3325

(C) Prohibit or affect the use or continuation, or the 3326
withholding or withdrawal, of life-sustaining treatment, CPR, or 3327
comfort care under Chapter 2133. of the Revised Code; 3328

(D) Prohibit or affect the provision or withholding of 3329
health care, life-sustaining treatment, or comfort care to a 3330
principal under a durable power of attorney for health care or 3331
any other health care decision made by an attorney in fact under 3332
sections 1337.11 to 1337.17 of the Revised Code; 3333

(E) Affect or limit the authority of a physician, a health 3334
care facility, a person employed by or under contract with a 3335
health care facility, or emergency service personnel to provide 3336
or withhold health care to a person in accordance with 3337
reasonable medical standards applicable in an emergency 3338
situation; 3339

(F) Affect or limit the authority of a person to refuse to 3340
give informed consent to health care, including through the 3341
execution of a durable power of attorney for health care under 3342
sections 1337.11 to 1337.17 of the Revised Code, the execution 3343
of a declaration under sections 2133.01 to 2133.15 of the 3344
Revised Code, or authorizing the withholding or withdrawal of 3345
CPR under sections 2133.21 to 2133.26 of the Revised Code. 3346

Sec. 3795.04. (A) Except as provided in section 3795.03 of 3347
the Revised Code, no person shall knowingly cause another person 3348

to commit or attempt to commit suicide by doing either of the 3349
following: 3350

(1) Providing the physical means by which the other person 3351
commits or attempts to commit suicide; 3352

(2) Participating in a physical act by which the other 3353
person commits or attempts to commit suicide. 3354

(B) Whoever violates division (A) of this section is 3355
guilty of assisting suicide, a felony of the third degree. 3356

Sec. 3923.84. (A) Notwithstanding section 3901.71 of the 3357
Revised Code, each individual and group sickness and accident 3358
insurance policy that is delivered, issued for delivery, or 3359
renewed in this state shall provide coverage for the screening, 3360
diagnosis, and treatment of autism spectrum disorder. A sickness 3361
and accident insurer shall not terminate an individual's 3362
coverage, or refuse to deliver, execute, issue, amend, adjust, 3363
or renew coverage to an individual solely because the individual 3364
is diagnosed with or has received treatment for an autism 3365
spectrum disorder. Nothing in this section shall be applied to 3366
nongrandfathered plans in the individual and small group markets 3367
or to medicare supplement, accident-only, specified disease, 3368
hospital indemnity, disability income, long-term care, or other 3369
limited benefit hospital insurance policies. Except as otherwise 3370
provided in division (B) of this section, coverage under this 3371
section shall not be subject to dollar limits, deductibles, or 3372
coinsurance provisions that are less favorable to an insured 3373
than the dollar limits, deductibles, or coinsurance provisions 3374
that apply to substantially all medical and surgical benefits 3375
under the policy. 3376

(B) Benefits provided under this section shall cover, at 3377

minimum, all of the following: 3378

(1) For speech and language therapy or occupational 3379
therapy for an insured under the age of fourteen that is 3380
performed by a licensed therapist, twenty visits per year for 3381
each service; 3382

(2) For clinical therapeutic intervention for an insured 3383
under the age of fourteen that is provided by or under the 3384
supervision of a professional who is licensed, certified, or 3385
registered by an appropriate agency of this state to perform 3386
such services in accordance with a health treatment plan, twenty 3387
hours per week; 3388

(3) For mental or behavioral health outpatient services 3389
for an insured under the age of fourteen that are performed by a 3390
licensed psychologist, psychiatrist, or physician providing 3391
consultation, assessment, development, or oversight of treatment 3392
plans, thirty visits per year. 3393

(C) (1) Except as provided in division (C) (2) of this 3394
section, this section shall not be construed as limiting 3395
benefits that are otherwise available to an insured under a 3396
policy. 3397

(2) A policy of sickness and accident insurance shall 3398
stipulate that coverage provided under this section be 3399
contingent upon both of the following: 3400

(a) The covered individual receiving prior authorization 3401
for the services in question; 3402

(b) The services in question being prescribed or ordered 3403
by either a developmental pediatrician or a psychologist trained 3404
in autism. 3405

(D) (1) Except for inpatient services, if an insured is 3406
receiving treatment for an autism spectrum disorder, a sickness 3407
and accident insurer may review the treatment plan annually, 3408
unless the insurer and the insured's treating physician or 3409
psychologist agree that a more frequent review is necessary. 3410

(2) Any such agreement as described in division (D) (1) of 3411
this section shall apply only to a particular insured being 3412
treated for an autism spectrum disorder and shall not apply to 3413
all individuals being treated for autism spectrum disorder by a 3414
physician or psychologist. 3415

(3) The insurer shall cover the cost of obtaining any 3416
review or treatment plan. 3417

(E) This section shall not be construed as affecting any 3418
obligation to provide services to an insured under an 3419
individualized family service plan, an individualized education 3420
program, or an individualized service plan. 3421

(F) As used in this section: 3422

(1) "Applied behavior analysis" means the design 3423
implementation, and evaluation of environmental modifications, 3424
using behavioral stimuli and consequences, to produce socially 3425
significant improvement in human behavior, including the use of 3426
direct observation, measurement, and functional analysis of the 3427
relationship between environment and behavior. 3428

(2) "Autism spectrum disorder" means any of the pervasive 3429
developmental disorders or autism spectrum disorder as defined 3430
by the most recent edition of the diagnostic and statistical 3431
manual of mental disorders published by the American psychiatric 3432
association available at the time an individual is first 3433
evaluated for suspected developmental delay. 3434

(3) "Clinical therapeutic intervention" means therapies supported by empirical evidence, which include, but are not limited to, applied behavioral analysis, that satisfy both of the following: 3435
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(a) Are necessary to develop, maintain, or restore, to the maximum extent practicable, the function of an individual; 3439
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(b) Are provided by or under the supervision of any of the following: 3441
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(i) A certified Ohio behavior analyst as defined in section 4783.01 of the Revised Code; 3443
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(ii) An individual licensed under Chapter 4732. of the Revised Code to practice psychology; 3445
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(iii) An individual licensed under Chapter 4757. of the Revised Code to practice professional counseling, social work, or marriage and family therapy. 3447
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(4) "Diagnosis of autism spectrum disorder" means medically necessary assessment, evaluations, or tests to diagnose whether an individual has an autism spectrum disorder. 3450
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(5) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services considered medically necessary to determine the need or effectiveness of the medications. 3453
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(6) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices. 3457
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(7) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices. 3460
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(8) "Therapeutic care" means services provided by a speech therapist, occupational therapist, or physical therapist licensed or certified in the state in which the person practices. 3463
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(9) "Treatment for autism spectrum disorder" means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician who is a developmental pediatrician or a licensed psychologist trained in autism who determines the care to be medically necessary, including any of the following: 3467
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(a) Clinical therapeutic intervention; 3473

(b) Pharmacy care; 3474

(c) Psychiatric care; 3475

(d) Psychological care; 3476

(e) Therapeutic care. 3477

(G) If any provision of this section or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the section and the application of such remainder to other persons or circumstances shall not be affected thereby. 3478
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Sec. 3963.01. As used in this chapter: 3483

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity. 3484
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(B) "Basic health care services" has the same meaning as in division (A) of section 1751.01 of the Revised Code, except 3488
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that it does not include any services listed in that division 3490
that are provided by a pharmacist or nursing home. 3491

(C) "Contracting entity" means any person that has a 3492
primary business purpose of contracting with participating 3493
providers for the delivery of health care services. 3494

(D) "Credentialing" means the process of assessing and 3495
validating the qualifications of a provider applying to be 3496
approved by a contracting entity to provide basic health care 3497
services, specialty health care services, or supplemental health 3498
care services to enrollees. 3499

(E) "Edit" means adjusting one or more procedure codes 3500
billed by a participating provider on a claim for payment or a 3501
practice that results in any of the following: 3502

(1) Payment for some, but not all of the procedure codes 3503
originally billed by a participating provider; 3504

(2) Payment for a different procedure code than the 3505
procedure code originally billed by a participating provider; 3506

(3) A reduced payment as a result of services provided to 3507
an enrollee that are claimed under more than one procedure code 3508
on the same service date. 3509

(F) "Electronic claims transport" means to accept and 3510
digitize claims or to accept claims already digitized, to place 3511
those claims into a format that complies with the electronic 3512
transaction standards issued by the United States department of 3513
health and human services pursuant to the "Health Insurance 3514
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 3515
U.S.C. 1320d, et seq., as those electronic standards are 3516
applicable to the parties and as those electronic standards are 3517
updated from time to time, and to electronically transmit those 3518

claims to the appropriate contracting entity, payer, or third-party administrator. 3519
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(G) "Enrollee" means any person eligible for health care 3521
benefits under a health benefit plan, including an eligible 3522
recipient of medicaid, and includes all of the following terms: 3523

(1) "Enrollee" and "subscriber" as defined by section 3524
1751.01 of the Revised Code; 3525

(2) "Member" as defined by section 1739.01 of the Revised 3526
Code; 3527

(3) "Insured" and "plan member" pursuant to Chapter 3923. 3528
of the Revised Code; 3529

(4) "Beneficiary" as defined by section 3901.38 of the 3530
Revised Code. 3531

(H) "Health care contract" means a contract entered into, 3532
materially amended, or renewed between a contracting entity and 3533
a participating provider for the delivery of basic health care 3534
services, specialty health care services, or supplemental health 3535
care services to enrollees. 3536

(I) "Health care services" means basic health care 3537
services, specialty health care services, and supplemental 3538
health care services. 3539

(J) "Material amendment" means an amendment to a health 3540
care contract that decreases the participating provider's 3541
payment or compensation, changes the administrative procedures 3542
in a way that may reasonably be expected to significantly 3543
increase the provider's administrative expenses, or adds a new 3544
product. A material amendment does not include any of the 3545
following: 3546

(1) A decrease in payment or compensation resulting solely 3547
from a change in a published fee schedule upon which the payment 3548
or compensation is based and the date of applicability is 3549
clearly identified in the contract; 3550

(2) A decrease in payment or compensation that was 3551
anticipated under the terms of the contract, if the amount and 3552
date of applicability of the decrease is clearly identified in 3553
the contract; 3554

(3) An administrative change that may significantly 3555
increase the provider's administrative expense, the specific 3556
applicability of which is clearly identified in the contract; 3557

(4) Changes to an existing prior authorization, 3558
precertification, notification, or referral program that do not 3559
substantially increase the provider's administrative expense; 3560

(5) Changes to an edit program or to specific edits if the 3561
participating provider is provided notice of the changes 3562
pursuant to division (A) (1) of section 3963.04 of the Revised 3563
Code and the notice includes information sufficient for the 3564
provider to determine the effect of the change; 3565

(6) Changes to a health care contract described in 3566
division (B) of section 3963.04 of the Revised Code. 3567

(K) "Participating provider" means a provider that has a 3568
health care contract with a contracting entity and is entitled 3569
to reimbursement for health care services rendered to an 3570
enrollee under the health care contract. 3571

(L) "Payer" means any person that assumes the financial 3572
risk for the payment of claims under a health care contract or 3573
the reimbursement for health care services provided to enrollees 3574
by participating providers pursuant to a health care contract. 3575

(M) "Primary enrollee" means a person who is responsible 3576
for making payments for participation in a health care plan or 3577
an enrollee whose employment or other status is the basis of 3578
eligibility for enrollment in a health care plan. 3579

(N) "Procedure codes" includes the American medical 3580
association's current procedural terminology code, the American 3581
dental association's current dental terminology, and the centers 3582
for medicare and medicaid services health care common procedure 3583
coding system. 3584

(O) "Product" means one of the following types of 3585
categories of coverage for which a participating provider may be 3586
obligated to provide health care services pursuant to a health 3587
care contract: 3588

(1) A health maintenance organization or other product 3589
provided by a health insuring corporation; 3590

(2) A preferred provider organization; 3591

(3) Medicare; 3592

(4) Medicaid; 3593

(5) Workers' compensation. 3594

(P) "Provider" means a physician, podiatrist, dentist, 3595
chiropractor, optometrist, psychologist, physician assistant, 3596
advanced practice registered nurse, occupational therapist, 3597
massage therapist, physical therapist, licensed professional 3598
counselor, licensed professional clinical counselor, hearing aid 3599
dealer, orthotist, prosthetist, home health agency, hospice care 3600
program, pediatric respite care program, palliative care 3601
facility, or hospital, or a provider organization or physician- 3602
hospital organization that is acting exclusively as an 3603

administrator on behalf of a provider to facilitate the 3604
provider's participation in health care contracts. "Provider" 3605
does not mean a pharmacist, pharmacy, nursing home, or a 3606
provider organization or physician-hospital organization that 3607
leases the provider organization's or physician-hospital 3608
organization's network to a third party or contracts directly 3609
with employers or health and welfare funds. 3610

(Q) "Specialty health care services" has the same meaning 3611
as in section 1751.01 of the Revised Code, except that it does 3612
not include any services listed in division (B) of section 3613
1751.01 of the Revised Code that are provided by a pharmacist or 3614
a nursing home. 3615

(R) "Supplemental health care services" has the same 3616
meaning as in division (B) of section 1751.01 of the Revised 3617
Code, except that it does not include any services listed in 3618
that division that are provided by a pharmacist or nursing home. 3619

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 3620
of the Revised Code: 3621

(1) "Affiliate" means a business entity that is owned by, 3622
operated by, controlled by, or under common control with another 3623
business entity. 3624

(2) "Communication" means a written or oral notification 3625
or advertisement that meets both of the following criteria, as 3626
applicable: 3627

(a) The notification or advertisement is transmitted by or 3628
on behalf of the seller of goods or services and by or through 3629
any printed, audio, video, cinematic, telephonic, or electronic 3630
means. 3631

(b) In the case of a notification or advertisement other 3632

than by telephone, either of the following conditions is met: 3633

(i) The notification or advertisement is followed by a 3634
telephone call from a telephone solicitor or salesperson. 3635

(ii) The notification or advertisement invites a response 3636
by telephone, and, during the course of that response, a 3637
telephone solicitor or salesperson attempts to make or makes a 3638
sale of goods or services. As used in division (A) (2) (b) (ii) of 3639
this section, "invites a response by telephone" excludes the 3640
mere listing or inclusion of a telephone number in a 3641
notification or advertisement. 3642

(3) "Gift, award, or prize" means anything of value that 3643
is offered or purportedly offered, or given or purportedly given 3644
by chance, at no cost to the receiver and with no obligation to 3645
purchase goods or services. As used in this division, "chance" 3646
includes a situation in which a person is guaranteed to receive 3647
an item and, at the time of the offer or purported offer, the 3648
telephone solicitor does not identify the specific item that the 3649
person will receive. 3650

(4) "Goods or services" means any real property or any 3651
tangible or intangible personal property, or services of any 3652
kind provided or offered to a person. "Goods or services" 3653
includes, but is not limited to, advertising; labor performed 3654
for the benefit of a person; personal property intended to be 3655
attached to or installed in any real property, regardless of 3656
whether it is so attached or installed; timeshare estates or 3657
licenses; and extended service contracts. 3658

(5) "Purchaser" means a person that is solicited to become 3659
or does become financially obligated as a result of a telephone 3660
solicitation. 3661

(6) "Salesperson" means an individual who is employed, 3662
appointed, or authorized by a telephone solicitor to make 3663
telephone solicitations but does not mean any of the following: 3664

(a) An individual who comes within one of the exemptions 3665
in division (B) of this section; 3666

(b) An individual employed, appointed, or authorized by a 3667
person who comes within one of the exemptions in division (B) of 3668
this section; 3669

(c) An individual under a written contract with a person 3670
who comes within one of the exemptions in division (B) of this 3671
section, if liability for all transactions with purchasers is 3672
assumed by the person so exempted. 3673

(7) "Telephone solicitation" means a communication to a 3674
person that meets both of the following criteria: 3675

(a) The communication is initiated by or on behalf of a 3676
telephone solicitor or by a salesperson. 3677

(b) The communication either represents a price or the 3678
quality or availability of goods or services or is used to 3679
induce the person to purchase goods or services, including, but 3680
not limited to, inducement through the offering of a gift, 3681
award, or prize. 3682

(8) "Telephone solicitor" means a person that engages in 3683
telephone solicitation directly or through one or more 3684
salespersons either from a location in this state, or from a 3685
location outside this state to persons in this state. "Telephone 3686
solicitor" includes, but is not limited to, any such person that 3687
is an owner, operator, officer, or director of, partner in, or 3688
other individual engaged in the management activities of, a 3689
business. 3690

(B) A telephone solicitor is exempt from the provisions of 3691
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 3692
Code if the telephone solicitor is any one of the following: 3693

(1) A person engaging in a telephone solicitation that is 3694
a one-time or infrequent transaction not done in the course of a 3695
pattern of repeated transactions of a like nature; 3696

(2) A person engaged in telephone solicitation solely for 3697
religious or political purposes; a charitable organization, 3698
fund-raising counsel, or professional solicitor in compliance 3699
with the registration and reporting requirements of Chapter 3700
1716. of the Revised Code; or any person or other entity exempt 3701
under section 1716.03 of the Revised Code from filing a 3702
registration statement under section 1716.02 of the Revised 3703
Code; 3704

(3) A person, making a telephone solicitation involving a 3705
home solicitation sale as defined in section 1345.21 of the 3706
Revised Code, that makes the sales presentation and completes 3707
the sale at a later, face-to-face meeting between the seller and 3708
the purchaser rather than during the telephone solicitation. 3709
However, if the person, following the telephone solicitation, 3710
causes another person to collect the payment of any money, this 3711
exemption does not apply. 3712

(4) A licensed securities, commodities, or investment 3713
broker, dealer, investment advisor, or associated person when 3714
making a telephone solicitation within the scope of the person's 3715
license. As used in division (B)(4) of this section, "licensed 3716
securities, commodities, or investment broker, dealer, 3717
investment advisor, or associated person" means a person subject 3718
to licensure or registration as such by the securities and 3719
exchange commission; the National Association of Securities 3720

Dealers or other self-regulatory organization, as defined by 15 3721
U.S.C.A. 78c; by the division of securities under Chapter 1707. 3722
of the Revised Code; or by an official or agency of any other 3723
state of the United States. 3724

(5) (a) A person primarily engaged in soliciting the sale 3725
of a newspaper of general circulation; 3726

(b) As used in division (B) (5) (a) of this section, 3727
"newspaper of general circulation" includes, but is not limited 3728
to, both of the following: 3729

(i) A newspaper that is a daily law journal designated as 3730
an official publisher of court calendars pursuant to section 3731
2701.09 of the Revised Code; 3732

(ii) A newspaper or publication that has at least twenty- 3733
five per cent editorial, non-advertising content, exclusive of 3734
inserts, measured relative to total publication space, and an 3735
audited circulation to at least fifty per cent of the households 3736
in the newspaper's retail trade zone as defined by the audit. 3737

(6) (a) An issuer, or its subsidiary, that has a class of 3738
securities to which all of the following apply: 3739

(i) The class of securities is subject to section 12 of 3740
the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 3741
registered or is exempt from registration under 15 U.S.C.A. 3742
781(g) (2) (A), (B), (C), (E), (F), (G), or (H); 3743

(ii) The class of securities is listed on the New York 3744
stock exchange, the American stock exchange, or the NASDAQ 3745
national market system; 3746

(iii) The class of securities is a reported security as 3747
defined in 17 C.F.R. 240.11Aa3-1(a) (4). 3748

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

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

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

(9) A supervised financial institution or its subsidiary. As used in division (B) (9) of this section, "supervised financial institution" means a bank, trust company, savings and loan association, savings bank, credit union, industrial loan company, consumer finance lender, commercial finance lender, or institution described in section 2(c) (2) (F) of the "Bank Holding

Company Act of 1956," 12 U.S.C.A. 1841(c) (2) (F), as amended, 3779
supervised by an official or agency of the United States, this 3780
state, or any other state of the United States; or a licensee or 3781
registrant under sections 1321.01 to 1321.19, 1321.51 to 3782
1321.60, or 1321.71 to 1321.83 of the Revised Code. 3783

(10) (a) An insurance company, association, or other 3784
organization that is licensed or authorized to conduct business 3785
in this state by the superintendent of insurance pursuant to 3786
Title XXXIX of the Revised Code or Chapter 1751. of the Revised 3787
Code, when soliciting within the scope of its license or 3788
authorization. 3789

(b) A licensed insurance broker, agent, or solicitor when 3790
soliciting within the scope of the person's license. As used in 3791
division (B) (10) (b) of this section, "licensed insurance broker, 3792
agent, or solicitor" means any person licensed as an insurance 3793
broker, agent, or solicitor by the superintendent of insurance 3794
pursuant to Title XXXIX of the Revised Code. 3795

(11) A person soliciting the sale of services provided by 3796
a cable television system operating under authority of a 3797
governmental franchise or permit; 3798

(12) A person soliciting a business-to-business sale under 3799
which any of the following conditions are met: 3800

(a) The telephone solicitor has been operating 3801
continuously for at least three years under the same business 3802
name under which it solicits purchasers, and at least fifty-one 3803
per cent of its gross dollar volume of sales consists of repeat 3804
sales to existing customers to whom it has made sales under the 3805
same business name. 3806

(b) The purchaser business intends to resell the goods 3807

purchased. 3808

(c) The purchaser business intends to use the goods or 3809
services purchased in a recycling, reuse, manufacturing, or 3810
remanufacturing process. 3811

(d) The telephone solicitor is a publisher of a periodical 3812
or of magazines distributed as controlled circulation 3813
publications as defined in division (CC) of section 5739.01 of 3814
the Revised Code and is soliciting sales of advertising, 3815
subscriptions, reprints, lists, information databases, 3816
conference participation or sponsorships, trade shows or media 3817
products related to the periodical or magazine, or other 3818
publishing services provided by the controlled circulation 3819
publication. 3820

(13) A person that, not less often than once each year, 3821
publishes and delivers to potential purchasers a catalog that 3822
complies with both of the following: 3823

(a) It includes all of the following: 3824

(i) The business address of the seller; 3825

(ii) A written description or illustration of each good or 3826
service offered for sale; 3827

(iii) A clear and conspicuous disclosure of the sale price 3828
of each good or service; shipping, handling, and other charges; 3829
and return policy. 3830

(b) One of the following applies: 3831

(i) The catalog includes at least twenty-four pages of 3832
written material and illustrations, is distributed in more than 3833
one state, and has an annual postage-paid mail circulation of 3834
not less than two hundred fifty thousand households; 3835

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

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

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

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

(17) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the good or cancels the service;

(18) (a) A person that, for at least one year, has been

operating a retail business under the same name as that used in 3865
connection with telephone solicitation and both of the following 3866
occur on a continuing basis: 3867

(i) The person either displays goods and offers them for 3868
retail sale at the person's business premises or offers services 3869
for sale and provides them at the person's business premises. 3870

(ii) At least fifty-one per cent of the person's gross 3871
dollar volume of retail sales involves purchases of goods or 3872
services at the person's business premises. 3873

(b) An affiliate of a person that meets the requirements 3874
in division (B) (18) (a) of this section if the affiliate meets 3875
all of the following requirements: 3876

(i) The affiliate has operated a retail business for a 3877
period of less than one year; 3878

(ii) The affiliate either displays goods and offers them 3879
for retail sale at the affiliate's business premises or offers 3880
services for sale and provides them at the affiliate's business 3881
premises; 3882

(iii) At least fifty-one per cent of the affiliate's gross 3883
dollar volume of retail sales involves purchases of goods or 3884
services at the affiliate's business premises. 3885

(c) A person that, for a period of less than one year, has 3886
been operating a retail business in this state under the same 3887
name as that used in connection with telephone solicitation, as 3888
long as all of the following requirements are met: 3889

(i) The person either displays goods and offers them for 3890
retail sale at the person's business premises or offers services 3891
for sale and provides them at the person's business premises; 3892

(ii) The goods or services that are the subject of 3893
telephone solicitation are sold at the person's business 3894
premises, and at least sixty-five per cent of the person's gross 3895
dollar volume of retail sales involves purchases of goods or 3896
services at the person's business premises; 3897

(iii) The person conducts all telephone solicitation 3898
activities according to sections 310.3, 310.4, and 310.5 of the 3899
telemarketing sales rule adopted by the federal trade commission 3900
in 16 C.F.R. part 310. 3901

(19) A person who performs telephone solicitation sales 3902
services on behalf of other persons and to whom one of the 3903
following applies: 3904

(a) The person has operated under the same ownership, 3905
control, and business name for at least five years, and the 3906
person receives at least seventy-five per cent of its gross 3907
revenues from written telephone solicitation contracts with 3908
persons who come within one of the exemptions in division (B) of 3909
this section. 3910

(b) The person is an affiliate of one or more exempt 3911
persons and makes telephone solicitations on behalf of only the 3912
exempt persons of which it is an affiliate. 3913

(c) The person makes telephone solicitations on behalf of 3914
only exempt persons, the person and each exempt person on whose 3915
behalf telephone solicitations are made have entered into a 3916
written contract that specifies the manner in which the 3917
telephone solicitations are to be conducted and that at a 3918
minimum requires compliance with the telemarketing sales rule 3919
adopted by the federal trade commission in 16 C.F.R. part 310, 3920
and the person conducts the telephone solicitations in the 3921

manner specified in the written contract. 3922

(d) The person performs telephone solicitation for 3923
religious or political purposes, a charitable organization, a 3924
fund-raising council, or a professional solicitor in compliance 3925
with the registration and reporting requirements of Chapter 3926
1716. of the Revised Code; and meets all of the following 3927
requirements: 3928

(i) The person has operated under the same ownership, 3929
control, and business name for at least five years, and the 3930
person receives at least fifty-one per cent of its gross 3931
revenues from written telephone solicitation contracts with 3932
persons who come within the exemption in division (B) (2) of this 3933
section; 3934

(ii) The person does not conduct a prize promotion or 3935
offer the sale of an investment opportunity; 3936

(iii) The person conducts all telephone solicitation 3937
activities according to sections 310.3, 310.4, and 310.5 of the 3938
telemarketing sales rules adopted by the federal trade 3939
commission in 16 C.F.R. part 310. 3940

(20) A person that is a licensed real estate salesperson 3941
or broker under Chapter 4735. of the Revised Code when 3942
soliciting within the scope of the person's license; 3943

(21) (a) Either of the following: 3944

(i) A publisher that solicits the sale of the publisher's 3945
periodical or magazine of general, paid circulation, or a person 3946
that solicits a sale of that nature on behalf of a publisher 3947
under a written agreement directly between the publisher and the 3948
person. 3949

(ii) A publisher that solicits the sale of the publisher's 3950
periodical or magazine of general, paid circulation, or a person 3951
that solicits a sale of that nature as authorized by a publisher 3952
under a written agreement directly with a publisher's 3953
clearinghouse provided the person is a resident of Ohio for more 3954
than three years and initiates all telephone solicitations from 3955
Ohio and the person conducts the solicitation and sale in 3956
compliance with 16 C.F.R. part 310, as adopted by the federal 3957
trade commission. 3958

(b) As used in division (B) (21) of this section, 3959
"periodical or magazine of general, paid circulation" excludes a 3960
periodical or magazine circulated only as part of a membership 3961
package or given as a free gift or prize from the publisher or 3962
person. 3963

(22) A person that solicits the sale of food, as defined 3964
in section 3715.01 of the Revised Code, or the sale of products 3965
of horticulture, as defined in section 5739.01 of the Revised 3966
Code, if the person does not intend the solicitation to result 3967
in, or the solicitation actually does not result in, a sale that 3968
costs the purchaser an amount greater than five hundred dollars. 3969

(23) A funeral director licensed pursuant to Chapter 4717. 3970
of the Revised Code when soliciting within the scope of that 3971
license, if both of the following apply: 3972

(a) The solicitation and sale are conducted in compliance 3973
with 16 C.F.R. part 453, as adopted by the federal trade 3974
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 3975
the Revised Code; 3976

(b) The person provides to the purchaser of any preneed 3977
funeral contract a notice that clearly and conspicuously sets 3978

forth the cancellation rights specified in division (G) of 3979
section 1107.33 of the Revised Code, and retains a copy of the 3980
notice signed by the purchaser. 3981

(24) A person, or affiliate thereof, licensed to sell or 3982
issue Ohio instruments designated as travelers checks pursuant 3983
to sections 1315.01 to 1315.18 of the Revised Code. 3984

(25) A person that solicits sales from its previous 3985
purchasers and meets all of the following requirements: 3986

(a) The solicitation is made under the same business name 3987
that was previously used to sell goods or services to the 3988
purchaser; 3989

(b) The person has, for a period of not less than three 3990
years, operated a business under the same business name as that 3991
used in connection with telephone solicitation; 3992

(c) The person does not conduct a prize promotion or offer 3993
the sale of an investment opportunity; 3994

(d) The person conducts all telephone solicitation 3995
activities according to sections 310.3, 310.4, and 310.5 of the 3996
telemarketing sales rules adopted by the federal trade 3997
commission in 16 C.F.R. part 310; 3998

(e) Neither the person nor any of its principals has been 3999
convicted of, pleaded guilty to, or has entered a plea of no 4000
contest for a felony or a theft offense as defined in sections 4001
2901.02 and 2913.01 of the Revised Code or similar law of 4002
another state or of the United States; 4003

(f) Neither the person nor any of its principals has had 4004
entered against them an injunction or a final judgment or order, 4005
including an agreed judgment or order, an assurance of voluntary 4006

compliance, or any similar instrument, in any civil or 4007
administrative action involving engaging in a pattern of corrupt 4008
practices, fraud, theft, embezzlement, fraudulent conversion, or 4009
misappropriation of property; the use of any untrue, deceptive, 4010
or misleading representation; or the use of any unfair, 4011
unlawful, deceptive, or unconscionable trade act or practice. 4012

(26) An institution defined as a home health agency in 4013
section 3701.881 of the Revised Code, that conducts all 4014
telephone solicitation activities according to sections 310.3, 4015
310.4, and 310.5 of the telemarketing sales rules adopted by the 4016
federal trade commission in 16 C.F.R. part 310, and engages in 4017
telephone solicitation only within the scope of the 4018
institution's certification, accreditation, contract with the 4019
department of aging, or status as a home health agency; and that 4020
meets one of the following requirements: 4021

(a) The institution is certified as a provider of home 4022
health services under Title XVIII of the Social Security Act, 49 4023
Stat. 620, 42 U.S.C. 301, as amended; 4024

(b) The institution is accredited by either the joint 4025
~~commission on accreditation of health care organizations~~ or the 4026
community health accreditation program; 4027

(c) The institution is providing PASSPORT services under 4028
the direction of the department of aging under sections 173.52 4029
to 173.523 of the Revised Code; 4030

(d) An affiliate of an institution that meets the 4031
requirements of division (B) (26) (a), (b), or (c) of this section 4032
when offering for sale substantially the same goods and services 4033
as those that are offered by the institution that meets the 4034
requirements of division (B) (26) (a), (b), or (c) of this 4035

section. 4036

(27) A person licensed by the department of health 4037
pursuant to section 3712.04~~or~~, 3712.041, or 3712.042 of the 4038
Revised Code to provide a hospice care program or pediatric 4039
respite care program, or to operate a palliative care facility, 4040
when conducting telephone solicitations within the scope of the 4041
person's license and according to sections 310.3, 310.4, and 4042
310.5 of the telemarketing sales rules adopted by the federal 4043
trade commission in 16 C.F.R. part 310. 4044

Sec. 4723.36. (A) A certified nurse practitioner or 4045
clinical nurse specialist may determine and pronounce an 4046
individual's death, but only if the individual's respiratory and 4047
circulatory functions are not being artificially sustained and, 4048
at the time the determination and pronouncement of death is 4049
made, either or both of the following apply: 4050

(1) The individual was receiving care in one of the 4051
following: 4052

(a) A nursing home licensed under section 3721.02 of the 4053
Revised Code or by a political subdivision under section 3721.09 4054
of the Revised Code; 4055

(b) A residential care facility or home for the aging 4056
licensed under Chapter 3721. of the Revised Code; 4057

(c) A county home or district home operated pursuant to 4058
Chapter 5155. of the Revised Code; 4059

(d) A residential facility licensed under section 5123.19 4060
of the Revised Code. 4061

(2) The certified nurse practitioner or clinical nurse 4062
specialist is providing or supervising the individual's care at 4063

a palliative care facility or through a hospice care program 4064
licensed under Chapter 3712. of the Revised Code or any other 4065
entity that provides palliative care. 4066

(B) A registered nurse may determine and pronounce an 4067
individual's death, but only if the individual's respiratory and 4068
circulatory functions are not being artificially sustained and, 4069
at the time the determination and pronouncement of death is 4070
made, the registered nurse is providing or supervising the 4071
individual's care at a palliative care facility licensed under 4072
section 3712.042 of the Revised Code, or through a hospice care 4073
program licensed under ~~Chapter 3712.~~ section 3712.04 of the 4074
Revised Code or any other entity that provides palliative care. 4075

(C) If a certified nurse practitioner, clinical nurse 4076
specialist, or registered nurse determines and pronounces an 4077
individual's death, the nurse shall comply with both of the 4078
following: 4079

(1) The nurse shall not complete any portion of the 4080
individual's death certificate. 4081

(2) The nurse shall notify the individual's attending 4082
physician of the determination and pronouncement of death in 4083
order for the physician to fulfill the physician's duties under 4084
section 3705.16 of the Revised Code. The nurse shall provide the 4085
notification within a period of time that is reasonable but not 4086
later than twenty-four hours following the determination and 4087
pronouncement of the individual's death. 4088

Sec. 4723.481. This section establishes standards and 4089
conditions regarding the authority of a clinical nurse 4090
specialist, certified nurse-midwife, or certified nurse 4091
practitioner to prescribe drugs and therapeutic devices under a 4092

certificate to prescribe issued under section 4723.48 of the Revised Code. 4093
4094

(A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not prescribe any drug or therapeutic device that is not included in the types of drugs and devices listed on the formulary established in rules adopted under section 4723.50 of the Revised Code. 4095
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(B) The prescriptive authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not exceed the prescriptive authority of the collaborating physician or podiatrist, including the collaborating physician's authority to treat chronic pain with controlled substances and products containing tramadol as described in section 4731.052 of the Revised Code. 4100
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(C) (1) Except as provided in division (C) (2) or (3) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may prescribe to a patient a schedule II controlled substance only if all of the following are the case: 4107
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4109
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4111

(a) The patient has a terminal condition, as defined in section 2133.01 of the Revised Code. 4112
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(b) The collaborating physician of the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner initially prescribed the substance for the patient. 4114
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(c) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four-hour period. 4117
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(2) The restrictions on prescriptive authority in division (C) (1) of this section do not apply if a clinical nurse 4120
4121

specialist, certified nurse-midwife, or certified nurse 4122
practitioner issues the prescription to the patient from any of 4123
the following locations: 4124

(a) A hospital registered under section 3701.07 of the 4125
Revised Code; 4126

(b) An entity owned or controlled, in whole or in part, by 4127
a hospital or by an entity that owns or controls, in whole or in 4128
part, one or more hospitals; 4129

(c) A health care facility operated by the department of 4130
mental health and addiction services or the department of 4131
developmental disabilities; 4132

(d) A nursing home licensed under section 3721.02 of the 4133
Revised Code or by a political subdivision certified under 4134
section 3721.09 of the Revised Code; 4135

(e) A county home or district home operated under Chapter 4136
5155. of the Revised Code that is certified under the medicare 4137
or medicaid program; 4138

(f) A hospice care program or palliative care facility, as 4139
defined in section 3712.01 of the Revised Code; 4140

(g) A community mental health services provider, as 4141
defined in section 5122.01 of the Revised Code; 4142

(h) An ambulatory surgical facility, as defined in section 4143
3702.30 of the Revised Code; 4144

(i) A freestanding birthing center, as defined in section 4145
3702.141 of the Revised Code; 4146

(j) A federally qualified health center, as defined in 4147
section 3701.047 of the Revised Code; 4148

(k) A federally qualified health center look-alike, as 4149
defined in section 3701.047 of the Revised Code; 4150

(l) A health care office or facility operated by the board 4151
of health of a city or general health district or the authority 4152
having the duties of a board of health under section 3709.05 of 4153
the Revised Code; 4154

(m) A site where a medical practice is operated, but only 4155
if the practice is comprised of one or more physicians who also 4156
are owners of the practice; the practice is organized to provide 4157
direct patient care; and the clinical nurse specialist, 4158
certified nurse-midwife, or certified nurse practitioner 4159
providing services at the site has a standard care arrangement 4160
and collaborates with at least one of the physician owners who 4161
practices primarily at that site. 4162

(3) A clinical nurse specialist, certified nurse-midwife, 4163
or certified nurse practitioner shall not issue to a patient a 4164
prescription for a schedule II controlled substance from a 4165
convenience care clinic even if the clinic is owned or operated 4166
by an entity specified in division (C) (2) of this section. 4167

(D) A pharmacist who acts in good faith reliance on a 4168
prescription issued by a clinical nurse specialist, certified 4169
nurse-midwife, or certified nurse practitioner under division 4170
(C) (2) of this section is not liable for or subject to any of 4171
the following for relying on the prescription: damages in any 4172
civil action, prosecution in any criminal proceeding, or 4173
professional disciplinary action by the state board of pharmacy 4174
under Chapter 4729. of the Revised Code. 4175

(E) A clinical nurse specialist, certified nurse-midwife, 4176
or certified nurse practitioner may personally furnish to a 4177

patient a sample of any drug or therapeutic device included in 4178
the types of drugs and devices listed on the formulary, except 4179
that all of the following conditions apply: 4180

(1) The amount of the sample furnished shall not exceed a 4181
seventy-two-hour supply, except when the minimum available 4182
quantity of the sample is packaged in an amount that is greater 4183
than a seventy-two-hour supply, in which case the packaged 4184
amount may be furnished. 4185

(2) No charge may be imposed for the sample or for 4186
furnishing it. 4187

(3) Samples of controlled substances may not be personally 4188
furnished. 4189

(F) A clinical nurse specialist, certified nurse-midwife, 4190
or certified nurse practitioner may personally furnish to a 4191
patient a complete or partial supply of a drug or therapeutic 4192
device included in the types of drugs and devices listed on the 4193
formulary, except that all of the following conditions apply: 4194

(1) The clinical nurse specialist, certified nurse- 4195
midwife, or certified nurse practitioner shall personally 4196
furnish only antibiotics, antifungals, scabicides, 4197
contraceptives, prenatal vitamins, antihypertensives, drugs and 4198
devices used in the treatment of diabetes, drugs and devices 4199
used in the treatment of asthma, and drugs used in the treatment 4200
of dyslipidemia. 4201

(2) The clinical nurse specialist, certified nurse- 4202
midwife, or certified nurse practitioner shall not furnish the 4203
drugs and devices in locations other than a health department 4204
operated by the board of health of a city or general health 4205
district or the authority having the duties of a board of health 4206

under section 3709.05 of the Revised Code, a federally funded 4207
comprehensive primary care clinic, or a nonprofit health care 4208
clinic or program. 4209

(3) The clinical nurse specialist, certified nurse- 4210
midwife, or certified nurse practitioner shall comply with all 4211
safety standards for personally furnishing supplies of drugs and 4212
devices, as established in rules adopted under section 4723.50 4213
of the Revised Code. 4214

(G) A clinical nurse specialist, certified nurse-midwife, 4215
or certified nurse practitioner shall comply with section 4216
3719.061 of the Revised Code if the nurse prescribes for a 4217
minor, as defined in that section, an opioid analgesic, as 4218
defined in section 3719.01 of the Revised Code. 4219

Sec. 4723.487. (A) As used in this section: 4220

(1) "Drug database" means the database established and 4221
maintained by the state board of pharmacy pursuant to section 4222
4729.75 of the Revised Code. 4223

(2) "Opioid analgesic" and "benzodiazepine" have the same 4224
meanings as in section 3719.01 of the Revised Code. 4225

(B) Except as provided in divisions (C) and (E) of this 4226
section, an advanced practice registered nurse holding a 4227
certificate to prescribe issued under this chapter shall comply 4228
with all of the following as conditions of prescribing a drug 4229
that is either an opioid analgesic or a benzodiazepine as part 4230
of a patient's course of treatment for a particular condition: 4231

(1) Before initially prescribing the drug, the nurse or 4232
the nurse's delegate shall request from the drug database a 4233
report of information related to the patient that covers at 4234
least the twelve months immediately preceding the date of the 4235

request. If the nurse practices primarily in a county of this 4236
state that adjoins another state, the nurse or delegate also 4237
shall request a report of any information available in the drug 4238
database that pertains to prescriptions issued or drugs 4239
furnished to the patient in the state adjoining that county. 4240

(2) If the patient's course of treatment for the condition 4241
continues for more than ninety days after the initial report is 4242
requested, the nurse or delegate shall make periodic requests 4243
for reports of information from the drug database until the 4244
course of treatment has ended. The requests shall be made at 4245
intervals not exceeding ninety days, determined according to the 4246
date the initial request was made. The request shall be made in 4247
the same manner provided in division (B)(1) of this section for 4248
requesting the initial report of information from the drug 4249
database. 4250

(3) On receipt of a report under division (B)(1) or (2) of 4251
this section, the nurse shall assess the information in the 4252
report. The nurse shall document in the patient's record that 4253
the report was received and the information was assessed. 4254

(C) Division (B) of this section does not apply if in any 4255
of the following circumstances: 4256

(1) A drug database report regarding the patient is not 4257
available, in which case the nurse shall document in the 4258
patient's record the reason that the report is not available. 4259

(2) The drug is prescribed in an amount indicated for a 4260
period not to exceed seven days. 4261

(3) The drug is prescribed for the treatment of cancer or 4262
another condition associated with cancer. 4263

(4) The drug is prescribed to a hospice patient in a 4264

hospice care program or to a palliative care patient in a 4265
palliative care facility, as those terms are defined in section 4266
3712.01 of the Revised Code, or to any other patient diagnosed 4267
as terminally ill. 4268

(5) The drug is prescribed for administration in a 4269
hospital, nursing home, or residential care facility. 4270

(D) The board of nursing may adopt rules, in accordance 4271
with Chapter 119. of the Revised Code, that establish standards 4272
and procedures to be followed by an advanced practice registered 4273
nurse with a certificate to prescribe issued under section 4274
4723.48 of the Revised Code regarding the review of patient 4275
information available through the drug database under division 4276
(A) (5) of section 4729.80 of the Revised Code. The rules shall 4277
be adopted in accordance with Chapter 119. of the Revised Code. 4278

(E) This section and any rules adopted under it do not 4279
apply if the state board of pharmacy no longer maintains the 4280
drug database. 4281

Sec. 4729.43. (A) As used in this section: 4282

(1) "Home health agency" has the same meaning as in 4283
section 3701.881 of the Revised Code. 4284

(2) "Hospice care program," ~~and~~ "hospice patient," 4285
"palliative care facility," and "palliative care patient" have 4286
the same meanings as in section 3712.01 of the Revised Code. 4287

(B) With regard to a dangerous drug that is indicated for 4288
the treatment of cancer or a cancer-related illness, must be 4289
administered intravenously or by subcutaneous injection, and 4290
cannot reasonably be self-administered by the patient to whom 4291
the drug is prescribed or by an individual assisting the patient 4292
with the self-administration, a pharmacist or pharmacy intern 4293

shall not dispense the drug by delivering the drug directly to 4294
any of the following or causing the drug to be delivered 4295
directly to any of the following: 4296

(1) The patient; 4297

(2) The patient's representative, which may include the 4298
patient's guardian or a family member or friend of the patient; 4299

(3) The patient's private residence unless any of the 4300
following is the case: 4301

(a) The patient's private residence is a nursing home, 4302
residential care facility, rehabilitation facility, palliative 4303
care facility, or similar institutional facility or health care 4304
facility. 4305

(b) If the patient is an adult and a hospice patient or 4306
client of a home health agency, the patient, the licensed health 4307
professional authorized to prescribe drugs who prescribed the 4308
drug to the patient, or an employee or agent of the prescriber 4309
has notified the pharmacist or pharmacy intern that the patient 4310
is a hospice patient or client of a home health agency and an 4311
employee or agent of the hospice care program or home health 4312
agency will be administering the drug to the patient. 4313

(c) If the patient is a minor and a hospice patient or 4314
client of a home health agency, either of the following has 4315
notified the pharmacist or pharmacy intern that the patient is a 4316
client of a home health agency and an employee or agent of the 4317
hospice care program or home health agency will be administering 4318
the drug to the patient: 4319

(i) The licensed health professional authorized to 4320
prescribe drugs who prescribed the drug to the patient or an 4321
employee or agent of the prescriber; 4322

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

Sec. 4730.202. (A) A physician assistant 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, either or both of the following apply:

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

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

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

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

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

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

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

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

(1) The physician assistant shall not complete any portion of the individual's death certificate. 4351
4352

(2) The physician assistant shall notify the individual's attending physician of the determination and pronouncement of death in order for the physician to fulfill the physician's duties under section 3705.16 of the Revised Code. The physician assistant shall provide the notification within a period of time that is reasonable but not later than twenty-four hours following the determination and pronouncement of the individual's death. 4353
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Sec. 4730.411. (A) Except as provided in division (B) or (C) of this section, a physician assistant may prescribe to a patient a schedule II controlled substance only if all of the following are the case: 4361
4362
4363
4364

(1) The patient is in a terminal condition, as defined in section 2133.01 of the Revised Code. 4365
4366

(2) The physician assistant's supervising physician initially prescribed the substance for the patient. 4367
4368

(3) The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, twenty-four-hour period. 4369
4370
4371

(B) The restrictions on prescriptive authority in division (A) of this section do not apply if a physician assistant issues the prescription to the patient from any of the following locations: 4372
4373
4374
4375

(1) A hospital registered under section 3701.07 of the Revised Code; 4376
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(2) An entity owned or controlled, in whole or in part, by 4378

a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;	4379 4380
(3) A health care facility operated by the department of mental health and addiction services or the department of developmental disabilities;	4381 4382 4383
(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;	4384 4385 4386
(5) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;	4387 4388 4389
(6) A hospice care program <u>or palliative care facility</u> , as defined in section 3712.01 of the Revised Code;	4390 4391
(7) A community mental health services provider, as defined in section 5122.01 of the Revised Code;	4392 4393
(8) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;	4394 4395
(9) A freestanding birthing center, as defined in section 3702.141 of the Revised Code;	4396 4397
(10) A federally qualified health center, as defined in section 3701.047 of the Revised Code;	4398 4399
(11) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	4400 4401
(12) 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;	4402 4403 4404 4405

(13) A site where a medical practice is operated, but only 4406
if the practice is comprised of one or more physicians who also 4407
are owners of the practice; the practice is organized to provide 4408
direct patient care; and the physician assistant has entered 4409
into a supervisory agreement with at least one of the physician 4410
owners who practices primarily at that site. 4411

(C) A physician assistant shall not issue to a patient a 4412
prescription for a schedule II controlled substance from a 4413
convenience care clinic even if the convenience care clinic is 4414
owned or operated by an entity specified in division (B) of this 4415
section. 4416

(D) A pharmacist who acts in good faith reliance on a 4417
prescription issued by a physician assistant under division (B) 4418
of this section is not liable for or subject to any of the 4419
following for relying on the prescription: damages in any civil 4420
action, prosecution in any criminal proceeding, or professional 4421
disciplinary action by the state board of pharmacy under Chapter 4422
4729. of the Revised Code. 4423

Sec. 4730.53. (A) As used in this section: 4424

(1) "Drug database" means the database established and 4425
maintained by the state board of pharmacy pursuant to section 4426
4729.75 of the Revised Code. 4427

(2) "Opioid analgesic" and "benzodiazepine" have the same 4428
meanings as in section 3719.01 of the Revised Code. 4429

(B) Except as provided in divisions (C) and (E) of this 4430
section, a physician assistant licensed under this chapter who 4431
has been granted physician-delegated prescriptive authority 4432
shall comply with all of the following as conditions of 4433
prescribing a drug that is either an opioid analgesic or a 4434

benzodiazepine as part of a patient's course of treatment for a 4435
particular condition: 4436

(1) Before initially prescribing the drug, the physician 4437
assistant or the physician assistant's delegate shall request 4438
from the drug database a report of information related to the 4439
patient that covers at least the twelve months immediately 4440
preceding the date of the request. If the physician assistant 4441
practices primarily in a county of this state that adjoins 4442
another state, the physician assistant or delegate also shall 4443
request a report of any information available in the drug 4444
database that pertains to prescriptions issued or drugs 4445
furnished to the patient in the state adjoining that county. 4446

(2) If the patient's course of treatment for the condition 4447
continues for more than ninety days after the initial report is 4448
requested, the physician assistant or delegate shall make 4449
periodic requests for reports of information from the drug 4450
database until the course of treatment has ended. The requests 4451
shall be made at intervals not exceeding ninety days, determined 4452
according to the date the initial request was made. The request 4453
shall be made in the same manner provided in division (B)(1) of 4454
this section for requesting the initial report of information 4455
from the drug database. 4456

(3) On receipt of a report under division (B)(1) or (2) of 4457
this section, the physician assistant shall assess the 4458
information in the report. The physician assistant shall 4459
document in the patient's record that the report was received 4460
and the information was assessed. 4461

(C) Division (B) of this section does not apply in any of 4462
the following circumstances: 4463

(1) A drug database report regarding the patient is not 4464
available, in which case the physician assistant shall document 4465
in the patient's record the reason that the report is not 4466
available. 4467

(2) The drug is prescribed in an amount indicated for a 4468
period not to exceed seven days. 4469

(3) The drug is prescribed for the treatment of cancer or 4470
another condition associated with cancer. 4471

(4) The drug is prescribed to a hospice patient in a 4472
hospice care program or to a palliative care patient in a 4473
palliative care facility, as those terms are defined in section 4474
3712.01 of the Revised Code, or to any other patient diagnosed 4475
as terminally ill. 4476

(5) The drug is prescribed for administration in a 4477
hospital, nursing home, or residential care facility. 4478

(D) The state medical board may adopt rules that establish 4479
standards and procedures to be followed by a physician assistant 4480
licensed under this chapter who has been granted physician- 4481
delegated prescriptive authority regarding the review of patient 4482
information available through the drug database under division 4483
(A) (5) of section 4729.80 of the Revised Code. The rules shall 4484
be adopted in accordance with Chapter 119. of the Revised Code. 4485

(E) This section and any rules adopted under it do not 4486
apply if the state board of pharmacy no longer maintains the 4487
drug database. 4488

Sec. 4731.055. (A) As used in this section: 4489

(1) "Drug database" means the database established and 4490
maintained by the state board of pharmacy pursuant to section 4491

4729.75 of the Revised Code. 4492

(2) "Physician" means an individual authorized under this 4493
chapter to practice medicine and surgery, osteopathic medicine 4494
and surgery, or podiatric medicine and surgery. 4495

(3) "Opioid analgesic" and "benzodiazepine" have the same 4496
meanings as in section 3719.01 of the Revised Code. 4497

(B) Except as provided in divisions (C) and (E) of this 4498
section, a physician shall comply with all of the following as 4499
conditions of prescribing a drug that is either an opioid 4500
analgesic or a benzodiazepine, or personally furnishing a 4501
complete or partial supply of such a drug, as part of a 4502
patient's course of treatment for a particular condition: 4503

(1) Before initially prescribing or furnishing the drug, 4504
the physician or the physician's delegate shall request from the 4505
drug database a report of information related to the patient 4506
that covers at least the twelve months immediately preceding the 4507
date of the request. If the physician practices primarily in a 4508
county of this state that adjoins another state, the physician 4509
or delegate also shall request a report of any information 4510
available in the drug database that pertains to prescriptions 4511
issued or drugs furnished to the patient in the state adjoining 4512
that county. 4513

(2) If the patient's course of treatment for the condition 4514
continues for more than ninety days after the initial report is 4515
requested, the physician or delegate shall make periodic 4516
requests for reports of information from the drug database until 4517
the course of treatment has ended. The requests shall be made at 4518
intervals not exceeding ninety days, determined according to the 4519
date the initial request was made. The request shall be made in 4520

the same manner provided in division (B) (1) of this section for 4521
requesting the initial report of information from the drug 4522
database. 4523

(3) On receipt of a report under division (B) (1) or (2) of 4524
this section, the physician shall assess the information in the 4525
report. The physician shall document in the patient's record 4526
that the report was received and the information was assessed. 4527

(C) Division (B) of this section does not apply in any of 4528
the following circumstances: 4529

(1) A drug database report regarding the patient is not 4530
available, in which case the physician shall document in the 4531
patient's record the reason that the report is not available. 4532

(2) The drug is prescribed or personally furnished in an 4533
amount indicated for a period not to exceed seven days. 4534

(3) The drug is prescribed or personally furnished for the 4535
treatment of cancer or another condition associated with cancer. 4536

(4) The drug is prescribed or personally furnished to a 4537
hospice patient in a hospice care program or to a palliative 4538
care patient in a palliative care facility, as those terms are 4539
defined in section 3712.01 of the Revised Code, or to any other 4540
patient diagnosed as terminally ill. 4541

(5) The drug is prescribed or personally furnished for 4542
administration in a hospital, nursing home, or residential care 4543
facility. 4544

(6) The drug is prescribed or personally furnished to 4545
treat acute pain resulting from a surgical or other invasive 4546
procedure or a delivery. 4547

(D) The state medical board may adopt rules that establish 4548

standards and procedures to be followed by a physician regarding 4549
the review of patient information available through the drug 4550
database under division (A) (5) of section 4729.80 of the Revised 4551
Code. The rules shall be adopted in accordance with Chapter 119. 4552
of the Revised Code. 4553

(E) This section and any rules adopted under it do not 4554
apply if the state board of pharmacy no longer maintains the 4555
drug database. 4556

Sec. 4731.228. (A) As used in this section: 4557

(1) "Federally qualified health center" has the same 4558
meaning as in section 3701.047 of the Revised Code. 4559

(2) "Federally qualified health center look-alike" has the 4560
same meaning as in section 3701.047 of the Revised Code. 4561

(3) "Health care entity" means any of the following that 4562
employs a physician to provide physician services: 4563

(a) A hospital registered with the department of health 4564
under section 3701.07 of the Revised Code; 4565

(b) A corporation formed under division (B) of section 4566
1701.03 of the Revised Code; 4567

(c) A corporation formed under Chapter 1702. of the 4568
Revised Code; 4569

(d) A limited liability company formed under Chapter 1705. 4570
of the Revised Code; 4571

(e) A health insuring corporation holding a certificate of 4572
authority under Chapter 1751. of the Revised Code; 4573

(f) A partnership; 4574

(g) A professional association formed under Chapter 1785. 4575

of the Revised Code. 4576

(4) "Physician" means an individual authorized under this 4577
chapter to practice medicine and surgery, osteopathic medicine 4578
and surgery, or podiatric medicine and surgery. 4579

(5) "Physician services" means direct patient care 4580
services provided by a physician pursuant to a certificate 4581
issued to the physician by the state medical board. 4582

(6) "Termination" means the end of a physician's 4583
employment with a health care entity for any reason. 4584

(B) This section applies when a physician's employment 4585
with a health care entity to provide physician services is 4586
terminated for any reason, unless the physician continues to 4587
provide medical services for patients of the health care entity 4588
on an independent contractor basis. 4589

(C) (1) Except as provided in division (C) (2) of this 4590
section, a health care entity shall send notice of the 4591
termination of a physician's employment to each patient who 4592
received physician services from the physician in the two-year 4593
period immediately preceding the date of employment termination. 4594
Only patients of the health care entity who received services 4595
from the physician are to receive the notice. 4596

(2) If the health care entity provides to the physician a 4597
list of patients treated and patient contact information, the 4598
health care entity may require the physician to send the notice 4599
required by this section. 4600

(D) The notice provided under division (C) of this section 4601
shall be provided not later than the date of termination or 4602
thirty days after the health care entity has actual knowledge of 4603
termination or resignation of the physician, whichever is later. 4604

The notice shall be provided in accordance with rules adopted by 4605
the state medical board under section 4731.05 of the Revised 4606
Code. The notice shall include at least all of the following: 4607

(1) A notice to the patient that the physician will no 4608
longer be practicing medicine as an employee of the health care 4609
entity; 4610

(2) Except in situations in which the health care entity 4611
has a good faith concern that the physician's conduct or the 4612
medical care provided by the physician would jeopardize the 4613
health and safety of patients, the physician's name and, if 4614
known by the health care entity, information provided by the 4615
physician that the patient may use to contact the physician; 4616

(3) The date on which the physician ceased or will cease 4617
to practice as an employee of the health care entity; 4618

(4) Contact information for an alternative physician or 4619
physicians employed by the health care entity or contact 4620
information for a group practice that can provide care for the 4621
patient; 4622

(5) Contact information that enables the patient to obtain 4623
information on the patient's medical records. 4624

(E) The requirements of this section do not apply to any 4625
of the following: 4626

(1) A physician rendering services to a patient on an 4627
episodic basis or in an emergency department or urgent care 4628
center, when it should not be reasonably expected that related 4629
medical services will be rendered by the physician to the 4630
patient in the future; 4631

(2) A medical director or other physician providing 4632

services in a similar capacity to a medical director to patients 4633
through a hospice care program licensed pursuant to section 4634
3712.04 of the Revised Code or a palliative care facility 4635
licensed pursuant to section 3712.042 of the Revised Code. 4636

(3) Medical residents, interns, and fellows who work in 4637
hospitals, health systems, federally qualified health centers, 4638
and federally qualified health center look-alikes as part of 4639
their medical education and training. 4640

(4) A physician providing services to a patient through a 4641
community mental health agency certified by the director of 4642
mental health under section 5119.611 of the Revised Code or an 4643
alcohol and drug addiction program certified by the department 4644
of alcohol and drug addiction services under section 3793.06 of 4645
the Revised Code. 4646

(5) A physician providing services to a patient through a 4647
federally qualified health center or a federally qualified 4648
health center look-alike. 4649

Sec. 4752.02. (A) Except as provided in division (B) of 4650
this section, no person shall provide home medical equipment 4651
services or claim to the public to be a home medical equipment 4652
services provider unless either of the following is the case: 4653

(1) The person holds a valid license issued under this 4654
chapter; 4655

(2) The person holds a valid certificate of registration 4656
issued under this chapter. 4657

(B) Division (A) of this section does not apply to any of 4658
the following: 4659

(1) A health care practitioner, as defined in section 4660

4769.01 of the Revised Code, who does not sell or rent home 4661
medical equipment; 4662

(2) A hospital that provides home medical equipment 4663
services only as an integral part of patient care and does not 4664
provide the services through a separate entity that has its own 4665
medicare or medicaid provider number; 4666

(3) A manufacturer or wholesale distributor of home 4667
medical equipment that does not sell directly to the public; 4668

(4) A hospice care program ~~or,~~ pediatric respite care 4669
program, or palliative care facility, as defined by section 4670
3712.01 of the Revised Code, that does not sell or rent home 4671
medical equipment; 4672

(5) A home, as defined by section 3721.01 of the Revised 4673
Code; 4674

(6) A home health agency that is certified under Title 4675
XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 4676
U.S.C. 1395, as a provider of home health services and does not 4677
sell or rent home medical equipment; 4678

(7) An individual who holds a current, valid license 4679
issued under Chapter 4741. of the Revised Code to practice 4680
veterinary medicine; 4681

(8) An individual who holds a current, valid license 4682
issued under Chapter 4779. of the Revised Code to practice 4683
orthotics, prosthetics, or pedorthics; 4684

(9) A pharmacy licensed under Chapter 4729. of the Revised 4685
Code that either does not sell or rent home medical equipment or 4686
receives total payments of less than ten thousand dollars per 4687
year from selling or renting home medical equipment; 4688

(10) A home dialysis equipment provider regulated by federal law.	4689 4690
Sec. 5119.34. (A) As used in this section and sections 5119.341 and 5119.342 of the Revised Code:	4691 4692
(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.	4693 4694 4695 4696 4697
(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.	4698 4699
(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.	4700 4701 4702
(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.	4703 4704 4705
(5) "Community mental health services provider" means a community mental health services provider as defined in section 5119.01 of the Revised Code.	4706 4707 4708
(6) "Community mental health services" means any mental health services certified by the department pursuant to section 5119.36 of the Revised Code.	4709 4710 4711
(7) "Operator" means the person or persons, firm, partnership, agency, governing body, association, corporation, or other entity that is responsible for the administration and management of a residential facility and that is the applicant for a residential facility license.	4712 4713 4714 4715 4716

(8) "Personal care services" means services including, but 4717
not limited to, the following: 4718

(a) Assisting residents with activities of daily living; 4719

(b) Assisting residents with self-administration of 4720
medication in accordance with rules adopted under this section; 4721

(c) Preparing special diets, other than complex 4722
therapeutic diets, for residents pursuant to the instructions of 4723
a physician or a licensed dietitian, in accordance with rules 4724
adopted under this section. 4725

"Personal care services" does not include "skilled nursing 4726
care" as defined in section 3721.01 of the Revised Code. A 4727
facility need not provide more than one of the services listed 4728
in division (A) (8) of this section to be considered to be 4729
providing personal care services. 4730

(9) "Room and board" means the provision of sleeping and 4731
living space, meals or meal preparation, laundry services, 4732
housekeeping services, or any combination thereof. 4733

(10) "Residential state supplement" means the program 4734
administered under section 5119.41 of the Revised Code and 4735
related provisions of the Administrative Code under which the 4736
state supplements the supplemental security income payments 4737
received by aged, blind, or disabled adults under Title XVI of 4738
the Social Security Act. Residential state supplement payments 4739
are used for the provision of accommodations, supervision, and 4740
personal care services to supplemental security income 4741
recipients the department of mental health and addition services 4742
determines are at risk of needing institutional care. 4743

(11) "Supervision" means any of the following: 4744

(a) Observing a resident to ensure the resident's health, 4745
safety, and welfare while the resident engages in activities of 4746
daily living or other activities; 4747

(b) Reminding a resident to perform or complete an 4748
activity, such as reminding a resident to engage in personal 4749
hygiene or other self-care activities; 4750

(c) Assisting a resident in making or keeping an 4751
appointment. 4752

(12) "Unrelated" means that a resident is not related to 4753
the owner or operator of a residential facility or to the 4754
owner's or operator's spouse as a parent, grandparent, child, 4755
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 4756
uncle, or as the child of an aunt or uncle. 4757

(B) (1) A "residential facility" is a publicly or privately 4758
operated home or facility that falls into one of the following 4759
categories: 4760

(a) Class one facilities provide accommodations, 4761
supervision, personal care services, and mental health services 4762
for one or more unrelated adults with mental illness or one or 4763
more unrelated children or adolescents with severe emotional 4764
disturbances; 4765

(b) Class two facilities provide accommodations, 4766
supervision, and personal care services to any of the following: 4767

(i) One or two unrelated persons with mental illness; 4768

(ii) One or two unrelated adults who are receiving 4769
residential state supplement payments; 4770

(iii) Three to sixteen unrelated adults. 4771

- (c) Class three facilities provide room and board for five or more unrelated adults with mental illness. 4772
4773
- (2) "Residential facility" does not include any of the following: 4774
4775
- (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; 4776
4777
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4779
4780
- (b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities; 4781
4782
4783
- (c) An institution or association subject to certification under section 5103.03 of the Revised Code; 4784
4785
- (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; 4786
4787
4788
- (e) A palliative care facility licensed under section 3712.042 of the Revised Code; 4789
4790
- (f) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code; 4791
4792
- ~~(f)~~ (g) A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code; 4793
4794
- ~~(g)~~ (h) Any facility that receives funding for operating costs from the development services agency under any program established to provide emergency shelter housing or transitional housing for the homeless; 4795
4796
4797
4798

~~(h)~~ (i) A terminal care facility for the homeless that has 4799
entered into an agreement with a hospice care program under 4800
section 3712.07 of the Revised Code; 4801

~~(i)~~ (j) A facility approved by the veterans administration 4802
under section 104(a) of the "Veterans Health Care Amendments of 4803
1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used 4804
exclusively for the placement and care of veterans; 4805

~~(j)~~ (k) The residence of a relative or guardian of a 4806
person with mental illness. 4807

(C) Nothing in division (B) of this section shall be 4808
construed to permit personal care services to be imposed on a 4809
resident who is capable of performing the activity in question 4810
without assistance. 4811

(D) Except in the case of a residential facility described 4812
in division (B) (1) (a) of this section, members of the staff of a 4813
residential facility shall not administer medication to the 4814
facility's residents, but may do any of the following: 4815

(1) Remind a resident when to take medication and watch to 4816
ensure that the resident follows the directions on the 4817
container; 4818

(2) Assist a resident in the self-administration of 4819
medication by taking the medication from the locked area where 4820
it is stored, in accordance with rules adopted pursuant to this 4821
section, and handing it to the resident. If the resident is 4822
physically unable to open the container, a staff member may open 4823
the container for the resident. 4824

(3) Assist a physically impaired but mentally alert 4825
resident, such as a resident with arthritis, cerebral palsy, or 4826
Parkinson's disease, in removing oral or topical medication from 4827

containers and in consuming or applying the medication, upon 4828
request by or with the consent of the resident. If a resident is 4829
physically unable to place a dose of medicine to the resident's 4830
mouth without spilling it, a staff member may place the dose in 4831
a container and place the container to the mouth of the 4832
resident. 4833

(E) (1) Except as provided in division (E) (2) of this 4834
section, a person operating or seeking to operate a residential 4835
facility shall apply for licensure of the facility to the 4836
department of mental health and addiction services. The 4837
application shall be submitted by the operator. When applying 4838
for the license, the applicant shall pay to the department the 4839
application fee specified in rules adopted under division (L) of 4840
this section. The fee is nonrefundable. 4841

The department shall send a copy of an application to the 4842
ADAMHS board serving the county in which the person operates or 4843
seeks to operate the facility. The ADAMHS board shall review the 4844
application and provide to the department any information about 4845
the applicant or the facility that the board would like the 4846
department to consider in reviewing the application. 4847

(2) A person may not apply for a license to operate a 4848
residential facility if the person is or has been the owner, 4849
operator, or manager of a residential facility for which a 4850
license to operate was revoked or for which renewal of a license 4851
was refused for any reason other than nonpayment of the license 4852
renewal fee, unless both of the following conditions are met: 4853

(a) A period of not less than two years has elapsed since 4854
the date the director of mental health and addiction services 4855
issued the order revoking or refusing to renew the facility's 4856
license. 4857

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

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

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

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

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

(b) Any facility operated by the applicant or licensee has been cited for a pattern of serious noncompliance or repeated

violations of statutes or rules during the period of current or 4887
previous licenses; 4888

(c) The applicant or licensee submits false or misleading 4889
information as part of a license application, renewal, or 4890
investigation. 4891

Proceedings initiated to deny applications for full or 4892
probationary licenses or to revoke such licenses are governed by 4893
Chapter 119. of the Revised Code. An order issued pursuant to 4894
this division remains in effect during the pendency of those 4895
proceedings. 4896

(G) The department may issue an interim license to operate 4897
a residential facility if both of the following conditions are 4898
met: 4899

(1) The department determines that the closing of or the 4900
need to remove residents from another residential facility has 4901
created an emergency situation requiring immediate removal of 4902
residents and an insufficient number of licensed beds are 4903
available. 4904

(2) The residential facility applying for an interim 4905
license meets standards established for interim licenses in 4906
rules adopted by the director under division (L) of this 4907
section. 4908

An interim license shall be valid for ninety days and may 4909
be renewed by the director no more than twice. Proceedings 4910
initiated to deny applications for or to revoke interim licenses 4911
under this division are not subject to Chapter 119. of the 4912
Revised Code. 4913

(H) (1) The department of mental health and addiction 4914
services may conduct an inspection of a residential facility as 4915

follows: 4916

(a) Prior to issuance of a license for the facility; 4917

(b) Prior to renewal of the license; 4918

(c) To determine whether the facility has completed a plan 4919
of correction required pursuant to division (H) (2) of this 4920
section and corrected deficiencies to the satisfaction of the 4921
department and in compliance with this section and rules adopted 4922
pursuant to it; 4923

(d) Upon complaint by any individual or agency; 4924

(e) At any time the director considers an inspection to be 4925
necessary in order to determine whether the facility is in 4926
compliance with this section and rules adopted pursuant to this 4927
section. 4928

(2) In conducting inspections the department may conduct 4929
an on-site examination and evaluation of the residential 4930
facility and its personnel, activities, and services. The 4931
department shall have access to examine and copy all records, 4932
accounts, and any other documents relating to the operation of 4933
the residential facility, including records pertaining to 4934
residents, and shall have access to the facility in order to 4935
conduct interviews with the operator, staff, and residents. 4936
Following each inspection and review, the department shall 4937
complete a report listing any deficiencies, and including, when 4938
appropriate, a time table within which the operator shall 4939
correct the deficiencies. The department may require the 4940
operator to submit a plan of correction describing how the 4941
deficiencies will be corrected. 4942

(I) No person shall do any of the following: 4943

(1) Operate a residential facility unless the facility holds a valid license;	4944 4945
(2) Violate any of the conditions of licensure after having been granted a license;	4946 4947
(3) Interfere with a state or local official's inspection or investigation of a residential facility;	4948 4949
(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.	4950 4951
(J) The following may enter a residential facility at any time:	4952 4953
(1) Employees designated by the director of mental health and addiction services;	4954 4955
(2) Employees of an ADAMHS board under either of the following circumstances:	4956 4957
(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;	4958 4959 4960
(b) When authorized by section 340.05 of the Revised Code.	4961
(3) Employees of a community mental health services provider under either of the following circumstances:	4962 4963
(a) When the provider has a person receiving services residing in the facility;	4964 4965
(b) When the provider is acting as an agent of an ADAMHS board other than the board with which it is under contract.	4966 4967
(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	4968 4969 4970

or to one or two unrelated adults who are recipients under the 4971
residential state supplement program. 4972

The persons specified in division (J) of this section 4973
shall be afforded access to examine and copy all records, 4974
accounts, and any other documents relating to the operation of 4975
the residential facility, including records pertaining to 4976
residents. 4977

(K) Employees of the department of mental health and 4978
addiction services may enter, for the purpose of investigation, 4979
any institution, residence, facility, or other structure which 4980
has been reported to the department as, or that the department 4981
has reasonable cause to believe is, operating as a residential 4982
facility without a valid license. 4983

(L) The director shall adopt and may amend and rescind 4984
rules pursuant to Chapter 119. of the Revised Code governing the 4985
licensing and operation of residential facilities. The rules 4986
shall establish all of the following: 4987

(1) Minimum standards for the health, safety, adequacy, 4988
and cultural competency of treatment of and services for persons 4989
in residential facilities; 4990

(2) Procedures for the issuance, renewal, or revocation of 4991
the licenses of residential facilities; 4992

(3) Procedures for conducting background investigations 4993
for prospective or current operators, employees, volunteers, and 4994
other non-resident occupants who may have direct access to 4995
facility residents; 4996

(4) The fee to be paid when applying for a new residential 4997
facility license or renewing the license; 4998

(5) Procedures for the operator of a residential facility	4999
to follow when notifying the ADAMHS board serving the county in	5000
which the facility is located when the facility is serving	5001
residents with mental illness or severe mental disability,	5002
including the circumstances under which the operator is required	5003
to make such a notification;	5004
(6) Procedures for the issuance and termination of orders	5005
of suspension of admission of residents to a residential	5006
facility;	5007
(7) Measures to be taken by residential facilities	5008
relative to residents' medication;	5009
(8) Requirements relating to preparation of special diets;	5010
(9) The maximum number of residents who may be served in a	5011
residential facility;	5012
(10) The rights of residents of residential facilities and	5013
procedures to protect such rights;	5014
(11) Standards and procedures under which the director may	5015
waive the requirements of any of the rules adopted.	5016
(M) (1) The department may withhold the source of any	5017
complaint reported as a violation of this section when the	5018
department determines that disclosure could be detrimental to	5019
the department's purposes or could jeopardize the investigation.	5020
The department may disclose the source of any complaint if the	5021
complainant agrees in writing to such disclosure and shall	5022
disclose the source upon order by a court of competent	5023
jurisdiction.	5024
(2) Any person who makes a complaint under division (M) (1)	5025
of this section, or any person who participates in an	5026

administrative or judicial proceeding resulting from such a 5027
complaint, is immune from civil liability and is not subject to 5028
criminal prosecution, other than for perjury, unless the person 5029
has acted in bad faith or with malicious purpose. 5030

(N) (1) The director of mental health and addiction 5031
services may petition the court of common pleas of the county in 5032
which a residential facility is located for an order enjoining 5033
any person from operating a residential facility without a 5034
license or from operating a licensed facility when, in the 5035
director's judgment, there is a present danger to the health or 5036
safety of any of the occupants of the facility. The court shall 5037
have jurisdiction to grant such injunctive relief upon a showing 5038
that the respondent named in the petition is operating a 5039
facility without a license or there is a present danger to the 5040
health or safety of any residents of the facility. 5041

(2) When the court grants injunctive relief in the case of 5042
a facility operating without a license, the court shall issue, 5043
at a minimum, an order enjoining the facility from admitting new 5044
residents to the facility and an order requiring the facility to 5045
assist with the safe and orderly relocation of the facility's 5046
residents. 5047

(3) If injunctive relief is granted against a facility for 5048
operating without a license and the facility continues to 5049
operate without a license, the director shall refer the case to 5050
the attorney general for further action. 5051

(O) The director may fine a person for violating division 5052
(I) of this section. The fine shall be five hundred dollars for 5053
a first offense; for each subsequent offense, the fine shall be 5054
one thousand dollars. The director's actions in imposing a fine 5055
shall be taken in accordance with Chapter 119. of the Revised 5056

Code. 5057

Section 2. That existing sections 109.57, 140.01, 140.08, 5058
1337.11, 1739.05, 2133.01, 2317.54, 2929.14, 3701.881, 3712.01, 5059
3712.09, 3721.01, 3795.01, 3795.03, 3963.01, 4719.01, 4723.36, 5060
4723.481, 4723.487, 4729.43, 4730.202, 4730.411, 4730.53, 5061
4731.055, 4731.228, 4752.02, and 5119.34 of the Revised Code are 5062
hereby repealed. 5063

Section 3. Sections 1739.05 and 1751.84 of the Revised 5064
Code, as amended and enacted by this act, apply only to 5065
policies, contracts, and agreements that are delivered, issued 5066
for delivery, or renewed in this state on or after January 1, 5067
2018. Section 3923.84 of the Revised Code, as enacted by this 5068
act, applies only to policies of sickness and accident insurance 5069
issued for delivery or renewed in this state on or after January 5070
1, 2018. 5071

Section 4. The Director of Aging and the Director of 5072
Health shall jointly develop recommendations regarding the 5073
establishment of standards and procedures for the operation of 5074
memory care units in this state, as well as quality-of-care 5075
metrics to be used in measuring the performance of such units. 5076
The directors shall, in accordance with section 101.68 of the 5077
Revised Code, submit the recommendations to the General Assembly 5078
not later than six months after the effective date of this 5079
section. 5080

Section 5. Section 1739.05 of the Revised Code is 5081
presented in this act as a composite of the section as amended 5082
by Am. Sub. H.B. 64, Sub. H.B. 116, and Sub. S.B. 129, all of 5083
the 131st General Assembly. The General Assembly, applying the 5084
principle stated in division (B) of section 1.52 of the Revised 5085
Code that amendments are to be harmonized if reasonably capable 5086

of simultaneous operation, finds that the composite is the 5087
resulting version of the section in effect prior to the 5088
effective date of the section as presented in this act. 5089

Section 4730.53 of the Revised Code is presented in this 5090
act as a composite of the section as amended by S.B. 110 of the 5091
131st General Assembly and H.B. 394 and S.B. 276 both of the 5092
130th General Assembly. The General Assembly, applying the 5093
principle stated in division (B) of section 1.52 of the Revised 5094
Code that amendments are to be harmonized if reasonably capable 5095
of simultaneous operation, finds that the composite is the 5096
resulting version of the section in effect prior to the 5097
effective date of the section as presented in this act. 5098