

**I\_135\_2652**

**135th General Assembly**  
**Regular Session**  
**2023-2024**

**Sub. S. B. No. 144**

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**A BILL**

To amend sections 3702.593, 3721.01, 3721.026, 1  
3721.072, 3721.121, 3721.28, 3721.30, 3721.31, 2  
3721.32, 4723.32, 4723.61, 4723.64, 4723.65, 3  
4723.651, 4723.653, 4723.66, 4723.67, 4723.68, 4  
4723.69, 4729.41, 5124.15, 5124.151, 5165.01, 5  
5165.06, 5165.26, 5165.51, and 5165.511 and to 6  
enact section 5165.518 of the Revised Code and 7  
to amend Section 333.270 of H.B. 33 of the 135th 8  
General Assembly and Section 280.12 of H.B. 45 9  
of the 134th General Assembly, as subsequently 10  
amended, regarding immunizations administered by 11  
pharmacists, pharmacy interns, and pharmacy 12  
technicians; regarding Medicaid reimbursement 13  
for dispensing drugs in lockable containers or 14  
tamper-evident containers; regarding 15  
certificates of need and change of operator 16  
procedures for nursing homes; regarding the per 17  
Medicaid day payment rate for specified 18  
ICFs/IID; regarding medication aides and 19  
certified nurse aides, including competency 20  
evaluation programs and training and competency 21  
evaluation programs; regarding nursing home 22



quality improvement projects; regarding 23  
conditional employment in homes and adult day 24  
care programs; and regarding grants provided to 25  
adult day care providers. 26

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

**Section 1.** That sections 3702.593, 3721.01, 3721.026, 27  
3721.072, 3721.121, 3721.28, 3721.30, 3721.31, 3721.32, 4723.32, 28  
4723.61, 4723.64, 4723.65, 4723.651, 4723.653, 4723.66, 4723.67, 29  
4723.68, 4723.69, 4729.41, 5124.15, 5124.151, 5165.01, 5165.06, 30  
5165.26, 5165.51, and 5165.511 be amended and section 5165.518 31  
of the Revised Code be enacted to read as follows: 32

**Sec. 3702.593.** (A) At the times specified in this section, 33  
the director of health shall accept, for review under section 34  
3702.52 of the Revised Code, certificate of need applications 35  
for any of the following purposes if the proposed increase in 36  
beds is attributable solely to relocation of existing beds from 37  
an existing long-term care facility in a county with excess beds 38  
to a long-term care facility in a county in which there are 39  
fewer long-term care beds than the county's bed need: 40

(1) Approval of beds in a new long-term care facility or 41  
an increase of beds in an existing long-term care facility if 42  
the beds are proposed to be licensed as nursing home beds under 43  
Chapter 3721. of the Revised Code; 44

(2) Approval of beds in a new county home or new county 45  
nursing home, or an increase of beds in an existing county home 46  
or existing county nursing home if the beds are proposed to be 47  
certified as skilled nursing facility beds under the medicare 48

program, Title XVIII of the "Social Security Act," 49 Stat. 286 49  
(1965), 42 U.S.C. 1395, as amended, or nursing facility beds 50  
under the medicaid program, Title XIX of the "Social Security 51  
Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended; 52

(3) An increase of hospital beds reported in an 53  
application submitted under section 3722.03 of the Revised Code 54  
as long-term care beds. 55

(B) For the purpose of implementing this section, the 56  
director shall do all of the following: 57

(1) Not later than October 1, 2023, and every ~~four~~two 58  
years thereafter, determine the long-term care bed supply for 59  
each county, which shall consist of all of the following: 60

(a) Nursing home beds licensed under Chapter 3721. of the 61  
Revised Code; 62

(b) Beds certified as skilled nursing facility beds under 63  
the medicare program or nursing facility beds under the medicaid 64  
program; 65

(c) Beds in any portion of a hospital that are properly 66  
reported in an application submitted under section 3722.03 of 67  
the Revised Code as skilled nursing beds, long-term care beds, 68  
or special skilled nursing beds; 69

(d) Beds in a county home or county nursing home that are 70  
certified under section 5155.38 of the Revised Code as having 71  
been in operation on July 1, 1993, and are eligible for 72  
licensure as nursing home beds; 73

(e) Beds described in division (O) (5) of section 3702.51 74  
of the Revised Code. 75

(2) Determine the long-term care bed occupancy rate for 76

the state at the time the determination is made; 77

(3) For each county, determine the county's bed need by 78  
identifying the number of long-term care beds that would be 79  
needed in the county in order for the statewide occupancy rate 80  
for a projected population aged sixty-five and older to be 81  
ninety per cent. 82

In determining each county's bed need, the director shall 83  
use the formula developed in rules adopted under section 3702.57 84  
of the Revised Code. A determination shall be made not later 85  
than October 1, 2023, and every ~~four~~two years thereafter. After 86  
each determination is made, the director shall publish the 87  
county's bed need on the web site maintained by the department 88  
of health. 89

(C) The director's consideration of an application for a 90  
certificate of need that would increase the number of beds in a 91  
county shall be consistent with the county's bed need determined 92  
under division (B) of this section, except as follows: 93

~~(1) If (1) (a) Except as provided in division (C) (1) (b) of~~ 94  
~~this section, if a county's occupancy rate is less than eighty-~~ 95  
~~five per cent, the county shall be considered to have no need~~ 96  
~~for additional beds.~~ 97

(b) Division (C) (1) (a) of this section does not apply, 98  
such that a county shall be considered to have a need for 99  
additional beds regardless of its occupancy rate, if all of the 100  
following conditions are satisfied: 101

(i) The county has at least sixty fewer long-term care 102  
beds than the county's bed need. 103

(ii) The application for a certificate of need is for the 104  
approval of beds in a new long-term care facility or an increase 105

of beds in an existing long-term care facility, and the beds are 106  
proposed to be licensed as nursing home beds under Chapter 3721. 107  
of the Revised Code. 108

(iii) The additional beds will be located in category one 109  
private rooms, as that term is defined in section 5165.158 of 110  
the Revised Code. 111

(2) Even if a county is determined not to need any 112  
additional long-term care beds, the director may approve an 113  
increase in beds equal to up to ten per cent of the county's bed 114  
supply if the county's occupancy rate is greater than ninety per 115  
cent. 116

(D) (1) For the review process used in considering 117  
certificate of need applications, the director shall establish a 118  
review period that begins January 1, 2020, and ends December 31, 119  
2023. Thereafter, the review period for each review process 120  
shall begin on the first day of January following the end of the 121  
previous review period and shall be ~~four~~two years. 122

(2) Certificate of need applications shall be accepted 123  
during the first month of the review period and reviewed through 124  
the thirtieth day of September of the year in which the review 125  
period begins. 126

(E) The director shall consider certificate of need 127  
applications in accordance with all of the following: 128

(1) The number of beds approved for a county shall include 129  
only beds available for relocation from another county and shall 130  
not exceed the bed need of the receiving county~~+~~. 131

(2) The director shall consider the existence of community 132  
resources serving persons who are age sixty-five or older or 133  
disabled that are demonstrably effective in providing 134

alternatives to long-term care facility placement. 135

(3) The director shall approve relocation of beds from a 136  
county only if, after the relocation, the number of beds 137  
remaining in the county will exceed the county's bed need by at 138  
least ~~one hundred fifty~~ beds;— 139

~~(4) The director shall approve relocation of beds from a 140  
long term care facility only if, after the relocation, the 141  
number of beds in the facility's service area is at least equal 142  
to the state bed need rate. For purposes of this division, a 143  
facility's service area shall be either of the following: 144~~

~~(a) The census tract in which the facility is located, if 145  
the facility is located in an area designated by the United 146  
States secretary of health and human services as a health 147  
professional shortage area under the "Public Health Service 148  
Act," 88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended; 149~~

~~(b) The area that is within a fifteen mile radius of the 150  
facility's location, if the facility is not located in a health 151  
professional shortage area. 152~~

(F) Applications made under this section are subject to 153  
comparative review if two or more applications are submitted 154  
during the same review period and any of the following applies: 155

(1) The applications propose to relocate beds from the 156  
same county and the number of beds for which certificates of 157  
need are being requested totals more than the number of beds 158  
available in the county from which the beds are to be relocated. 159

(2) The applications propose to relocate beds to the same 160  
county and the number of beds for which certificates of need are 161  
being requested totals more than the number of beds needed in 162  
the county to which the beds are to be relocated. 163

~~(3) The applications propose to relocate beds from the same service area and the number of beds left in the service area from which the beds are being relocated would be less than the state bed need rate determined by the director.~~

(G) In determining which applicants should receive preference in the comparative review process, the director shall consider all of the following as weighted priorities:

(1) Whether the beds will be part of a continuing care retirement community;

(2) Whether the beds will serve an underserved population, such as low-income individuals, individuals with disabilities, or individuals who are members of racial or ethnic minority groups;

(3) Whether the project in which the beds will be included will provide alternatives to institutional care, such as adult day-care, home health care, respite or hospice care, mobile meals, residential care, independent living, or congregate living services;

(4) Whether the long-term care facility's owner or operator will participate in medicaid waiver programs for alternatives to institutional care;

(5) Whether the project in which the beds will be included will reduce alternatives to institutional care by converting residential care beds or other alternative care beds to long-term care beds;

(6) Whether the facility in which the beds will be placed has positive resident and family satisfaction surveys;

(7) Whether the facility in which the beds will be placed

has fewer than fifty long-term care beds;	192
(8) Whether the long-term care facility in which the beds	193
will be placed is located within the <del>service area of</del> <u>served by</u> a	194
hospital and is designed to accept patients for rehabilitation	195
after an in-patient hospital stay;	196
(9) Whether the long-term care facility in which the beds	197
will be placed is or proposes to become a nurse aide training	198
and testing site;	199
(10) The rating, under the centers for medicare and	200
medicaid services' five star nursing home quality rating system,	201
of the long-term care facility in which the beds will be placed.	202
(H) A person who has submitted an application under this	203
section that is not subject to comparative review may revise the	204
site of the proposed project pursuant to section 3702.522 of the	205
Revised Code.	206
<del>(I) When a certificate of need application is approved, in</del>	207
<del>addition to the actions required by division (D) of section</del>	208
<del>3702.52 of the Revised Code, the long term care facility from</del>	209
<del>which the beds were relocated shall reduce the number of beds</del>	210
<del>operated in the facility by a number of beds equal to at least</del>	211
<del>ten per cent of the number of beds relocated. If these beds are</del>	212
<del>in a home licensed under Chapter 3721. of the Revised Code, the</del>	213
<del>long term care facility shall have the beds removed from the</del>	214
<del>license. If the beds are in a facility that is certified as a</del>	215
<del>skilled nursing facility or nursing facility under Title XVIII</del>	216
<del>or XIX of the "Social Security Act," the facility shall</del>	217
<del>surrender the certification of these beds. If the beds are</del>	218
<del>reported in an application submitted under section 3722.03 of</del>	219
<del>the Revised Code as skilled nursing beds or long term care beds,</del>	220



~~the long term care facility shall surrender the registration for 221  
these beds. This reduction shall be made not later than the 222  
completion date of the project for which the beds were 223  
relocated. 224~~

**Sec. 3721.01.** (A) As used in sections 3721.01 to 3721.09 225  
and 3721.99 of the Revised Code: 226

(1) (a) "Home" means an institution, residence, or facility 227  
that provides, for a period of more than twenty-four hours, 228  
whether for a consideration or not, accommodations to three or 229  
more unrelated individuals who are dependent upon the services 230  
of others, including a nursing home, residential care facility, 231  
home for the aging, and a veterans' home operated under Chapter 232  
5907. of the Revised Code. 233

(b) "Home" also means both of the following: 234

(i) Any facility that a person, as defined in section 235  
3702.51 of the Revised Code, proposes for certification as a 236  
skilled nursing facility or nursing facility under Title XVIII 237  
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 238  
U.S.C.A. 301, as amended, and for which a certificate of need, 239  
other than a certificate to recategorize hospital beds as 240  
described in section 3702.521 of the Revised Code or division 241  
(R) (7) (d) of the version of section 3702.51 of the Revised Code 242  
in effect immediately prior to April 20, 1995, has been granted 243  
to the person under sections 3702.51 to 3702.62 of the Revised 244  
Code after August 5, 1989; 245

(ii) A county home or district home that is or has been 246  
licensed as a residential care facility. 247

(c) "Home" does not mean any of the following: 248

(i) Except as provided in division (A) (1) (b) of this 249

section, a public hospital or hospital as defined in section	250
3701.01 or 5122.01 of the Revised Code;	251
(ii) A residential facility as defined in section 5119.34	252
of the Revised Code;	253
(iii) A residential facility as defined in section 5123.19	254
of the Revised Code;	255
(iv) A community addiction services provider as defined in	256
section 5119.01 of the Revised Code;	257
(v) A facility licensed under section 5119.37 of the	258
Revised Code to operate an opioid treatment program;	259
(vi) A facility providing services under contract with the	260
department of developmental disabilities under section 5123.18	261
of the Revised Code;	262
(vii) A facility operated by a hospice care program	263
licensed under section 3712.04 of the Revised Code that is used	264
exclusively for care of hospice patients;	265
(viii) A facility operated by a pediatric respite care	266
program licensed under section 3712.041 of the Revised Code that	267
is used exclusively for the care of pediatric respite care	268
patients or a location operated by a pediatric transition care	269
program registered under section 3712.042 of the Revised Code	270
that is used exclusively for the care of pediatric transition	271
care patients;	272
(ix) A facility, infirmary, or other entity that is	273
operated by a religious order, provides care exclusively to	274
members of religious orders who take vows of celibacy and live	275
by virtue of their vows within the orders as if related, and	276
does not participate in the medicare program or the medicaid	277

program if on January 1, 1994, the facility, infirmary, or 278  
entity was providing care exclusively to members of the 279  
religious order; 280

(x) A county home or district home that has never been 281  
licensed as a residential care facility. 282

(2) "Unrelated individual" means one who is not related to 283  
the owner or operator of a home or to the spouse of the owner or 284  
operator as a parent, grandparent, child, grandchild, brother, 285  
sister, niece, nephew, aunt, uncle, or as the child of an aunt 286  
or uncle. 287

(3) "Mental impairment" does not mean mental illness, as 288  
defined in section 5122.01 of the Revised Code, or developmental 289  
disability, as defined in section 5123.01 of the Revised Code. 290

(4) "Skilled nursing care" means procedures that require 291  
technical skills and knowledge beyond those the untrained person 292  
possesses and that are commonly employed in providing for the 293  
physical, mental, and emotional needs of the ill or otherwise 294  
incapacitated. "Skilled nursing care" includes, but is not 295  
limited to, the following: 296

(a) Irrigations, catheterizations, application of 297  
dressings, and supervision of special diets; 298

(b) Objective observation of changes in the patient's 299  
condition as a means of analyzing and determining the nursing 300  
care required and the need for further medical diagnosis and 301  
treatment; 302

(c) Special procedures contributing to rehabilitation; 303

(d) Administration of medication by any method ordered by 304  
a physician, such as hypodermically, rectally, or orally, 305

including observation of the patient after receipt of the medication; 306  
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(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration. 308  
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(5) (a) "Personal care services" means services including, but not limited to, the following: 311  
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(i) Assisting residents with activities of daily living; 313

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code; 314  
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(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. 317  
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(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. 321  
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(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 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. 326  
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(7) "Residential care facility" means a home that provides either of the following: 332  
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(a) Accommodations for seventeen or more unrelated 334  
individuals and supervision and personal care services for three 335  
or more of those individuals who are dependent on the services 336  
of others by reason of age or physical or mental impairment; 337

(b) Accommodations for three or more unrelated 338  
individuals, supervision and personal care services for at least 339  
three of those individuals who are dependent on the services of 340  
others by reason of age or physical or mental impairment, and, 341  
to at least one of those individuals, any of the skilled nursing 342  
care authorized by section 3721.011 of the Revised Code. 343

(8) "Home for the aging" means a home that provides 344  
services as a residential care facility and a nursing home, 345  
except that the home provides its services only to individuals 346  
who are dependent on the services of others by reason of both 347  
age and physical or mental impairment. 348

The part or unit of a home for the aging that provides 349  
services only as a residential care facility is licensed as a 350  
residential care facility. The part or unit that may provide 351  
skilled nursing care beyond the extent authorized by section 352  
3721.011 of the Revised Code is licensed as a nursing home. 353

(9) "County home" and "district home" mean a county home 354  
or district home operated under Chapter 5155. of the Revised 355  
Code. 356

(10) "~~Change of operator" has the same meaning as in~~ 357  
section 5165.01 of the Revised Code includes circumstances in 358  
which an entering operator becomes the operator of a nursing 359  
home in the place of the exiting operator. 360

(a) Actions that constitute a change of operator include 361  
the following: 362

- (i) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship; 363  
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- (ii) A change in operational control of the nursing home, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home is also transferred; 366  
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- (iii) A lease of the nursing home to the entering operator or termination of the exiting operator's lease; 370  
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- (iv) If the exiting operator is a partnership, dissolution of the partnership, a merger of the partnership into another person that is the survivor of the merger, or a consolidation of the partnership and at least one other person to form a new person; 372  
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- (v) If the exiting operator is a limited liability company, dissolution of the limited liability company, a merger of the limited liability company into another person that is the survivor of the merger, or a consolidation of the limited liability company and at least one other person to form a new person; 377  
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- (vi) If the exiting operator is a corporation, dissolution of the corporation, a merger of the corporation into another person that is the survivor of the merger, or a consolidation of the corporation and at least one other person to form a new person; 383  
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- (vii) A contract for a person to assume operational control of a nursing home; 388  
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- (viii) A change of fifty per cent or more in the ownership of the licensed operator that results in a change of operational 390  
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<u>control;</u>	392
<u>(ix) Any pledge, assignment, or hypothecation of or lien</u>	393
<u>or other encumbrance on any of the legal or beneficial equity</u>	394
<u>interests in the operator or a person with operational control.</u>	395
<u>(b) The following do not constitute a change of operator:</u>	396
<u>(i) Actions necessary to create an employee stock</u>	397
<u>ownership plan under section 401(a) of the "Internal Revenue</u>	398
<u>Code," 26 U.S.C. 401(a);</u>	399
<u>(ii) A change of ownership of real property or personal</u>	400
<u>property associated with a nursing home;</u>	401
<u>(iii) If the operator is a corporation that has securities</u>	402
<u>publicly traded in a marketplace, a change of one or more</u>	403
<u>members of the corporation's governing body or transfer of</u>	404
<u>ownership of one or more shares of the corporation's stock, if</u>	405
<u>the same corporation continues to be the operator;</u>	406
<u>(iv) An initial public offering for which the securities</u>	407
<u>and exchange commission has declared the registration statement</u>	408
<u>effective, and the newly created public company remains the</u>	409
<u>operator.</u>	410
<u>(11) "Related party" <del>has the same meaning as in section</del></u>	411
<u>5165.01 of the Revised Code means an individual or organization</u>	412
<u>that, to a significant extent, has common ownership with, is</u>	413
<u>associated or affiliated with, has control of, or is controlled</u>	414
<u>by, the entering operator.</u>	415
<u>(a) An individual who is a relative of an entering</u>	416
<u>operator is a related party.</u>	417
<u>(b) Common ownership exists when an individual or</u>	418
<u>individuals possess significant ownership or equity in both the</u>	419

provider and the other organization. Significant ownership or 420  
equity exists when an individual or individuals possess five per 421  
cent ownership or equity in both the entering operator and a 422  
supplier. Significant ownership or equity is presumed to exist 423  
when an individual or individuals possess ten per cent ownership 424  
or equity in both the entering operator and another organization 425  
from which the entering operator purchases or leases real 426  
property. 427

(c) Control exists when an individual or organization has 428  
the power, directly or indirectly, to significantly influence or 429  
direct the actions or policies of an organization. 430

(d) An individual or organization that supplies goods or 431  
services to an entering operator shall not be considered a 432  
related party if all of the following conditions are met: 433

(i) The supplier is a separate bona fide organization. 434

(ii) A substantial part of the supplier's business 435  
activity of the type carried on with the entering operator is 436  
transacted with others than the entering operator and there is 437  
an open, competitive market for the types of goods or services 438  
the supplier furnishes. 439

(iii) The types of goods or services are commonly obtained 440  
by other nursing homes from outside organizations and are not a 441  
basic element of patient care ordinarily furnished directly to 442  
patients by nursing homes. 443

(iv) The charge to the entering operator is in line with 444  
the charge for the goods or services in the open market and not 445  
more than the charge made under comparable circumstances to 446  
others by the supplier. 447

(12) "SFF list" means the list of nursing facilities 448



created by the United States department of health and human 449  
services under the special focus facility program. 450

(13) "Special focus facility program" means the program 451  
conducted by the United States secretary of health and human 452  
services pursuant to section 1919(f)(10) of the "Social Security 453  
Act," 42 U.S.C. 1396r(f)(10). 454

(14) "Real and present danger" means immediate danger of 455  
serious physical or life-threatening harm to one or more 456  
occupants of a home. 457

(15) "Operator" means a person or government entity 458  
responsible for the operational control of a nursing home and 459  
that holds both of the following: 460

(a) A license to operate the nursing home issued under 461  
section 3721.02 of the Revised Code, if such a license is 462  
required by section 3721.05 of the Revised Code; 463

(b) A medicaid provider agreement issued under section 464  
5165.07 of the Revised Code, if applicable. 465

(16) "Entering operator" means the person or government 466  
entity that will become the operator of a nursing home when a 467  
change of operator occurs or following a license revocation. 468

(17) "Relative of entering operator" means an individual 469  
who is related to an entering operator of a nursing home by one 470  
of the following relationships: 471

(a) Spouse; 472

(b) Natural parent, child, or sibling; 473

(c) Adopted parent, child, or sibling; 474

(d) Stepparent, stepchild, stepbrother, or stepsister; 475

<u>(e) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;</u>	476
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<u>(f) Grandparent or grandchild;</u>	478
<u>(g) Foster caregiver, foster child, foster brother, or foster sister.</u>	479
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<u>(18) "Exiting operator" means any of the following:</u>	481
<u>(a) An operator that will cease to be the operator of a nursing home on the effective date of a change of operator;</u>	482
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<u>(b) An operator that will cease to be the operator of a nursing home on the effective date of a facility closure;</u>	484
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<u>(c) An operator of a nursing home that is undergoing or has undergone a surrender of license;</u>	486
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<u>(d) An operator of a nursing home that is undergoing or has undergone a license revocation.</u>	488
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<u>(19) "Operational control" means having the ability to direct the overall operations and cash flow of a nursing home.</u>	490
<u>"Operational control" may be exercised by one person or by multiple persons acting together or by a government entity, and may exist by means of any of the following:</u>	491
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<u>(a) The person, persons, or government entity directly operating the nursing home;</u>	495
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<u>(b) The person, persons, or government entity directly or indirectly owning fifty per cent or more of the operator of the nursing home;</u>	497
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<u>(c) An agreement or other arrangement granting the person, persons, or government entity operational control of the nursing home.</u>	500
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(20) "Property owner" means any person or government 503  
entity that has at least five per cent ownership or interest, 504  
either directly, indirectly, or in any combination, in any of 505  
the following regarding a nursing home: 506

(a) The land on which the nursing home is located; 507

(b) The structure in which the nursing home is located; 508

(c) Any mortgage, contract for deed, or other obligation 509  
secured in whole or in part by the land or structure on or in 510  
which the nursing home is located; 511

(d) Any lease or sublease of the land or structure on or 512  
in which the nursing home is located. 513

"Property owner" does not include a holder of a debenture 514  
or bond related to the nursing home and purchased at public 515  
issue or a regulated lender that has made a loan related to the 516  
nursing home, unless the holder or lender operates the nursing 517  
home directly or through a subsidiary. 518

(21) "Person" has the same meaning as in section 1.59 of 519  
the Revised Code. 520

(B) The director of health may further classify homes. For 521  
the purposes of this chapter, any residence, institution, hotel, 522  
congregate housing project, or similar facility that meets the 523  
definition of a home under this section is such a home 524  
regardless of how the facility holds itself out to the public. 525

(C) For purposes of this chapter, personal care services 526  
or skilled nursing care shall be considered to be provided by a 527  
facility if they are provided by a person employed by or 528  
associated with the facility or by another person pursuant to an 529  
agreement to which neither the resident who receives the 530

services nor the resident's sponsor is a party. 531

(D) Nothing in division (A) (4) of this section shall be 532  
construed to permit skilled nursing care to be imposed on an 533  
individual who does not require skilled nursing care. 534

Nothing in division (A) (5) of this section shall be 535  
construed to permit personal care services to be imposed on an 536  
individual who is capable of performing the activity in question 537  
without assistance. 538

(E) Division (A) (1) (c) (ix) of this section does not 539  
prohibit a facility, infirmary, or other entity described in 540  
that division from seeking licensure under sections 3721.01 to 541  
3721.09 of the Revised Code or certification under Title XVIII 542  
or XIX of the "Social Security Act." However, such a facility, 543  
infirmary, or entity that applies for licensure or certification 544  
must meet the requirements of those sections or titles and the 545  
rules adopted under them and obtain a certificate of need from 546  
the director of health under section 3702.52 of the Revised 547  
Code. 548

(F) Nothing in this chapter, or rules adopted pursuant to 549  
it, shall be construed as authorizing the supervision, 550  
regulation, or control of the spiritual care or treatment of 551  
residents or patients in any home who rely upon treatment by 552  
prayer or spiritual means in accordance with the creed or tenets 553  
of any recognized church or religious denomination. 554

**Sec. 3721.026.** (A) ~~If~~ Before the director of health can 555  
issue a license to operate a nursing home undergoes a change of 556  
to an entering operator, all of the following requirements must 557  
be satisfied ~~before the director of health may issue a license~~ 558  
~~authorizing the person to operate the nursing home:~~ 559

(1) The ~~person~~entering operator completes a change of operator license application on a form prescribed by the director and pays the applicable fee as determined by the director.

Any fee required by the director under division (A) (1) of this section shall be credited to the general operations fund established under section 3701.83 of the Revised Code.

A completed application shall be submitted not later than forty-five days before the proposed effective date of the change of operator if the change of operator does not entail the relocation of residents. A completed application shall be submitted not later than ninety days before the proposed effective date of the change of operator if the change of operator entails the relocation of residents. The director may waive the time requirements specified in division (A) (1) of this section in an emergency, such as the death of the operator.

The change of operator license application established under this section shall include all of the following:

(a) Disclosure of all direct and indirect owners owning at least five per cent of each of the following:

(i) The ~~applicant~~entering operator, if the ~~applicant~~entering operator is an entity;

(ii) The owner of the building or buildings in which the nursing home is housed, if the owner of the building or buildings is a different person or government entity from the ~~applicant~~entering operator;

(iii) The owner of the legal rights associated with the ownership and operation of the nursing home beds, if the owner of the legal rights is a different person or government entity

from the ~~applicant~~entering operator; 589

(iv) ~~The management firm or business employed to manage~~ 590  
~~the nursing home, if the management firm or business employed to~~ 591  
~~manage the nursing home is a different person from the~~ 592  
~~applicant;~~ 593

~~(v)~~ Each related party that provides or will provide 594  
services to the nursing home, through contracts with any party 595  
identified in division (A) (1) (a) of this section. 596

(b) Disclosure of ~~the direct or indirect ownership~~ 597  
~~interest of each individual whether a person or government~~ 598  
entity identified in division (A) (1) (a) of this section has or 599  
had a direct or indirect ownership or operational interest in a 600  
current or previously licensed nursing home in this state or 601  
another state, including disclosure of whether any of the 602  
following occurred with respect to an identified nursing home 603  
within the five years immediately ~~proceeding~~ preceding the date 604  
of application: 605

(i) Voluntary or involuntary closure of the nursing home; 606

(ii) Voluntary or involuntary bankruptcy proceedings; 607

(iii) Voluntary or involuntary receivership proceedings; 608

(iv) License suspension, denial, or revocation; 609

(v) Injunction proceedings initiated by a regulatory 610  
agency; 611

(vi) The nursing home is listed in table A, table B, or 612  
table D on the SFF list under the special focus facility 613  
program; 614

(vii) A civil or criminal action was filed against it by a 615

state or federal entity. 616

(c) Any additional information that the director considers 617  
necessary to determine the ownership, operation, management, and 618  
control of the nursing home. 619

~~(2) The application fee required under division (A) (1) of 620  
this section is credited to the general operations fund 621  
established under section 3701.83 of the Revised Code. 622~~

~~(3) Except for applications that demonstrate that the 623  
applicant entering operator, or a person or government entity 624  
that directly or indirectly owns at least fifty per cent of the 625  
entering operator, directly or indirectly owns at least fifty 626  
per cent of the nursing home and its assets or at least fifty 627  
per cent of the entity that owns the nursing home and its assets 628  
, the applicant entering operator submits evidence of a bond or 629  
other financial security reasonably acceptable to the director 630  
for an amount not less than the product of the number of 631  
licensed beds in the nursing home, as reflected in the 632  
application, multiplied by ten thousand dollars. The bond may be 633  
supplied by either the entering operator or the property owner 634  
of the nursing home. 635~~

(a) The bond or other financial security shall be renewed, 636  
replaced, or maintained for five years after the effective date 637  
of the change of operator. The aggregate liability of a surety 638  
shall not exceed the sum of the bond, which is not cumulative 639  
from period to period. If the bond or other financial security 640  
is not renewed, replaced, or maintained in accordance with this 641  
division, the director shall revoke the nursing home operator's 642  
license after providing thirty days' notice to the operator. The 643  
bond or other financial security shall be released five years 644  
after the effective date of the change of operator if none of 645

the events described in division ~~(A) (3) (b)~~ (A) (2) (b) of this 646  
section have occurred. 647

(b) The director may utilize the bond or other financial 648  
security required under division ~~(A) (3)~~ (A) (2) of this section\_ 649  
to pay expenses incurred by the director or another state 650  
official or agency if any of the following occur during the 651  
five-year period for which the bond or other financial security 652  
is required: 653

~~(1)~~ (i) The nursing home is voluntarily or involuntarily 654  
closed. 655

~~(2)~~ (ii) The nursing home or its owner or operator is the 656  
subject of voluntary or involuntary bankruptcy proceedings. 657

~~(3)~~ (iii) The nursing home or its owner or operator is the 658  
subject of voluntary or involuntary receivership proceedings. 659

~~(4)~~ (iv) The license to operate the nursing home is 660  
suspended, denied, or revoked. 661

~~(5)~~ (v) The nursing home undergoes a change of operator, 662  
unless the new applicant submits a bond or other financial 663  
security in accordance with this section. 664

~~(6)~~ (vi) The nursing home appears in table A, table B, or 665  
table D on the SFF list under the special focus facility 666  
program. 667

~~(4)~~ A (3) The entering operator or a person or government 668  
entity who is a direct or indirect owner of fifty per cent or 669  
more of the applicant is an individual who will have operational 670  
control of the nursing home has at least five years of 671  
experience as either of the following: 672

(a) An administrator of a nursing home located in this 673



state or another state; 674

~~(b) A direct or indirect owner of at least fifty per cent~~ 675  
~~in either of the following:~~ 676

~~(i) An operator~~ A person or government entity with 677  
operational control of a nursing home located in this state or 678  
another state; ~~—~~ 679

~~(ii) A manager of a nursing home located in this state or~~ 680  
another state. 681

~~(5) (4) The applicant~~ entering operator attests that the 682  
~~applicant~~ entering operator has plans for quality assurance and 683  
risk management for the operation of the nursing home. 684

~~(6) (5) The applicant~~ entering operator attests that the 685  
~~applicant~~ entering operator has general and professional 686  
liability insurance coverage that provides coverage of at least 687  
one million dollars per occurrence and three million dollars 688  
aggregate. 689

~~(7) (6) The applicant~~ entering operator attests that the 690  
~~applicant~~ entering operator has sufficient numbers of qualified 691  
staff, by training or experience, who will be employed to 692  
properly care for the type and number of nursing home residents. 693

(B) The director shall issue to the entering operator a 694  
notice of intent to grant a change of operator license upon a 695  
determination that all requirements of this section have been 696  
met, except for submission of the final document evidencing 697  
completion of the transaction. 698

(C) The director shall ~~may~~ conduct a survey of the nursing 699  
home not ~~more~~ less than sixty days after the effective date of 700  
the change of operator. 701

~~(1)~~ (D) The requirements established by this section are 702  
in addition to the other requirements established by this 703  
chapter and the rules adopted under it for a license to operate 704  
a nursing home. 705

(E) The director shall deny a change of operator license 706  
application if any of the following circumstances exist: 707

(1) The requirements established by this section are not 708  
satisfied ~~license application or if the applicant.~~ 709

(2) The entering operator or a person or government entity 710  
identified in division (A) (1) (a) of this section who directly or 711  
indirectly has twenty-five per cent or more ownership of the 712  
entering operator meets both of the following criteria: 713

(a) The entering operator or the person or government 714  
entity has or had ~~fifty~~ either of the following relationships to 715  
a currently or previously licensed nursing home in this state or 716  
another state: 717

(i) Fifty per cent or more direct or indirect ownership in 718  
the ~~operator or manager of a current or previously licensed~~ 719  
nursing home in this state or another state with respect to 720  
which any; 721

(ii) Alone or together with one or more other persons, 722  
operational control of the nursing home. 723

(b) Any of the following occurred with respect to the 724  
current or previously licensed nursing home described in 725  
division (E) (2) (a) of this section within the five years 726  
immediately preceding the date of application: 727

~~(a)~~ (i) Involuntary closure of the nursing home by a 728  
regulatory agency or voluntary closure in response to licensure 729

or certification action;	730
<del>(b)</del> <u>(ii) Voluntary or involuntary bankruptcy proceedings</u>	731
that are not dismissed within sixty days;	732
<del>(e)</del> <u>(iii) Voluntary or involuntary receivership</u>	733
proceedings that are not dismissed within sixty days;	734
<del>(d)</del> <u>(iv) License suspension, denial, or revocation for</u>	735
failure to comply with operating standards.	736
<u>(3) If a change of twenty-five per cent or more of the</u>	737
<u>property ownership interest in a nursing home occurs in</u>	738
<u>connection with the change of operator, the person or government</u>	739
<u>entity who acquired the property ownership interest meets both</u>	740
<u>of the following criteria:</u>	741
<u>(a) The person or government entity has or had either of</u>	742
<u>the following relationships to a currently or previously</u>	743
<u>licensed nursing home in this state or another state:</u>	744
<u>(i) Fifty per cent or more direct or indirect property</u>	745
<u>ownership in the nursing home;</u>	746
<u>(ii) Alone or together with one or more other persons,</u>	747
<u>operational control of the nursing home.</u>	748
<u>(b) Any of the following occurred with respect to the</u>	749
<u>current or previously licensed nursing home described in</u>	750
<u>division (E) (3) (a) of this section within the five years</u>	751
<u>immediately preceding the date of application:</u>	752
<u>(i) Involuntary closure of the nursing home by a</u>	753
<u>regulatory agency or voluntary closure in response to licensure</u>	754
<u>or certification action;</u>	755
<u>(ii) Voluntary or involuntary bankruptcy proceedings that</u>	756

are not dismissed within sixty days; 757

(iii) Voluntary or involuntary receivership proceedings 758  
that are not dismissed within sixty days; 759

(iv) License suspension, denial, or revocation for failure 760  
to comply with operating standards. 761

~~(2)~~ (F) An applicant entering operator may appeal the 762  
denial of a change of operator license application in accordance 763  
with Chapter 119. of the Revised Code. 764

~~(C)~~ (G) An applicant entering operator shall notify do all 765  
of the following: 766

(1) Notify the director immediately upon discovery of any 767  
error, omission, or change of information in a change of 768  
operator license application. 769

(2) Notify the director within ten days of any change in 770  
the information or documentation required by this section, ~~—~~ 771  
~~whether the change that occurs before or after the effective~~ 772  
date of the change of operator. 773

(3) Truthfully supply any additional information or 774  
documentation requested by the director. 775

If an ~~applicant entering operator~~ fails to notify the 776  
director or supply additional information or documentation in 777  
accordance with this division, the director shall impose a civil 778  
penalty of two thousand dollars for each day of noncompliance. 779

(4) Not complete the change of operator until the director 780  
issues to the entering operator notice of intent to grant a 781  
change of operator license in accordance with division (B) of 782  
this section. The entering operator shall submit the final 783  
document evidencing completion of the transaction not later than 784

five days after completion. 785

~~(D)~~ ~~(1)~~ (H) (1) The director shall investigate an allegation 786  
that a change of operator has occurred and the entering operator 787  
failed to submit an application in accordance with this section 788  
or an application was filed but the information was fraudulent. 789  
The director may request the attorney general's assistance with 790  
an investigation under this section. 791

(2) If the director becomes aware, by means of an 792  
investigation or otherwise, that a change of operator has 793  
occurred and the entering operator failed to submit an 794  
application in accordance with this section, or an application 795  
was filed but the information provided was fraudulent, the 796  
director shall impose a civil penalty of two thousand dollars 797  
for each day of noncompliance after the date the director 798  
becomes aware that the change of operator has occurred. If the 799  
entering operator fails to submit an application or new 800  
application in accordance with this section within sixty days of 801  
the director becoming aware of the change of operator, the 802  
director shall begin the process of revoking a nursing home 803  
license as specified in section 3721.03 of the Revised Code. 804

~~(E)~~ (I) It is the intent of the general assembly in 805  
amending this section to require full and complete disclosure 806  
and transparency with respect to the ownership, operation, and 807  
management of each licensed nursing home located in this state. 808  
The director may adopt rules as necessary to implement this 809  
section. Any rules shall be adopted in accordance with Chapter 810  
119. of the Revised Code. 811

**Sec. 3721.072.** (A) As used in this section: 812

(1) "Advance care planning" means providing an opportunity 813

to discuss the goals that may be met through the care provided 814  
by a nursing home. 815

(2) "Overhead paging" means sending audible announcements 816  
through an electronic sound amplification and distribution 817  
system throughout part or all of a nursing home to staff, 818  
residents, residents' families, or others. 819

(B) ~~Beginning July 1, 2013, each~~ Each nursing home shall 820  
participate every two years in at least one ~~of the~~ quality 821  
improvement ~~projects~~ project, and in doing so, shall prioritize 822  
projects to assist with workforce, such as employee satisfaction 823  
surveys, enhanced recruitment methods, or workplace culture 824  
improvements. A nursing home may consider projects included on 825  
the list made available by the department of aging under the 826  
nursing home quality initiative established under section 173.60 827  
of the Revised Code. 828

(C) Beginning July 1, 2015, each nursing home shall 829  
participate in advance care planning with each resident or the 830  
resident's sponsor if the resident is unable to participate. For 831  
each resident, the advance care planning shall be provided on 832  
admission to the nursing home or, in the case of an individual 833  
residing in a nursing home on July 1, 2015, as soon as 834  
practicable. Thereafter, for each resident, the advance care 835  
planning shall be provided quarterly each year. 836

(D) Beginning July 1, 2015, each nursing home shall 837  
prohibit the use of overhead paging within the nursing home, 838  
except that the nursing home may permit the use of overhead 839  
paging for matters of urgent public safety or urgent clinical 840  
operations. The nursing home shall develop a written policy 841  
regarding its use of overhead paging and make the policy 842  
available to staff, residents, and residents' families. 843

<b>Sec. 3721.121.</b> (A) As used in this section:	844
(1) "Adult day-care program" means a program operated pursuant to rules adopted by the director of health under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.	845 846 847 848
(2) "Applicant" means a person who is under final consideration for employment with a home or adult day-care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.	849 850 851 852 853 854 855
(3) "Community-based long-term care services provider" means a provider as defined in section 173.39 of the Revised Code.	856 857 858
(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	859 860
(5) "Home" means a home as defined in section 3721.10 of the Revised Code.	861 862
(6) "Older adult" means a person age sixty or older.	863
(B) (1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that	864 865 866 867 868 869 870 871 872

five-year period the superintendent has requested information 873  
about the applicant from the federal bureau of investigation in 874  
a criminal records check, the chief administrator shall request 875  
that the superintendent obtain information from the federal 876  
bureau of investigation as part of the criminal records check of 877  
the applicant. Even if an applicant for whom a criminal records 878  
check request is required under this division presents proof of 879  
having been a resident of this state for the five-year period, 880  
the chief administrator may request that the superintendent 881  
include information from the federal bureau of investigation in 882  
the criminal records check. 883

(2) A person required by division (B) (1) of this section 884  
to request a criminal records check shall do both of the 885  
following: 886

(a) Provide to each applicant for whom a criminal records 887  
check request is required under that division a copy of the form 888  
prescribed pursuant to division (C) (1) of section 109.572 of the 889  
Revised Code and a standard fingerprint impression sheet 890  
prescribed pursuant to division (C) (2) of that section, and 891  
obtain the completed form and impression sheet from the 892  
applicant; 893

(b) Forward the completed form and impression sheet to the 894  
superintendent of the bureau of criminal identification and 895  
investigation. 896

(3) An applicant provided the form and fingerprint 897  
impression sheet under division (B) (2) (a) of this section who 898  
fails to complete the form or provide fingerprint impressions 899  
shall not be employed in any position for which a criminal 900  
records check is required by this section. 901



(C) (1) Except as provided in rules adopted by the director 902  
of health in accordance with division (F) of this section and 903  
subject to division (C) (2) of this section, no home or adult 904  
day-care program shall employ a person in a position that 905  
involves providing direct care to an older adult if the person 906  
has been convicted of or pleaded guilty to any of the following: 907

(a) A violation of section 2903.01, 2903.02, 2903.03, 908  
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 909  
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 910  
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 911  
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 912  
2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 913  
2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 914  
2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 915  
2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code. 916

(b) A violation of an existing or former law of this 917  
state, any other state, or the United States that is 918  
substantially equivalent to any of the offenses listed in 919  
division (C) (1) (a) of this section. 920

(2) (a) A home or an adult day-care program may employ 921  
conditionally an applicant for whom a criminal records check 922  
request is required under division (B) of this section prior to 923  
obtaining the results of a criminal records check regarding the 924  
individual, provided that the home or program shall request a 925  
criminal records check regarding the individual in accordance 926  
with division (B) (1) of this section not later than five 927  
business days after the individual begins conditional 928  
employment. In the circumstances described in division (I) (2) of 929  
this section, a home or adult day-care program may employ 930  
conditionally an applicant who has been referred to the home or 931

adult day-care program by an employment service that supplies 932  
full-time, part-time, or temporary staff for positions involving 933  
the direct care of older adults and for whom, pursuant to that 934  
division, a criminal records check is not required under 935  
division (B) of this section. 936

(b) A home or adult day-care program that employs an 937  
individual conditionally under authority of division (C) (2) (a) 938  
of this section shall terminate the individual's employment if 939  
the results of the criminal records check requested under 940  
division (B) of this section or described in division (I) (2) of 941  
this section, other than the results of any request for 942  
information from the federal bureau of investigation, are not 943  
obtained within the period ending ~~thirty-sixty~~ days after the 944  
date the request is made. Regardless of when the results of the 945  
criminal records check are obtained, if the results indicate 946  
that the individual has been convicted of or pleaded guilty to 947  
any of the offenses listed or described in division (C) (1) of 948  
this section, the home or program shall terminate the 949  
individual's employment unless the home or program chooses to 950  
employ the individual pursuant to division (F) of this section. 951  
Termination of employment under this division shall be 952  
considered just cause for discharge for purposes of division (D) 953  
(2) of section 4141.29 of the Revised Code if the individual 954  
makes any attempt to deceive the home or program about the 955  
individual's criminal record. 956

(D) (1) Each home or adult day-care program shall pay to 957  
the bureau of criminal identification and investigation the fee 958  
prescribed pursuant to division (C) (3) of section 109.572 of the 959  
Revised Code for each criminal records check conducted pursuant 960  
to a request made under division (B) of this section. 961

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D) (1) of this section. A home or program may collect a fee only if both of the following apply:

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

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

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

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

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

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

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

(5) Any person to whom the report is provided pursuant to, 990  
and in accordance with, division (I) (1) or (2) of this section; 991

(6) The board of nursing for purposes of accepting and 992  
processing an application for a medication aide certificate 993  
issued under Chapter 4723. of the Revised Code; 994

(7) The director of aging or the director's designee if 995  
the criminal records check is requested by the chief 996  
administrator of a home that is also a community-based long-term 997  
care services provider. 998

(F) In accordance with section 3721.11 of the Revised 999  
Code, the director of health shall adopt rules to implement this 1000  
section. The rules shall specify circumstances under which a 1001  
home or adult day-care program may employ a person who has been 1002  
convicted of or pleaded guilty to an offense listed or described 1003  
in division (C) (1) of this section but meets personal character 1004  
standards set by the director. 1005

(G) The chief administrator of a home or adult day-care 1006  
program shall inform each individual, at the time of initial 1007  
application for a position that involves providing direct care 1008  
to an older adult, that the individual is required to provide a 1009  
set of fingerprint impressions and that a criminal records check 1010  
is required to be conducted if the individual comes under final 1011  
consideration for employment. 1012

(H) In a tort or other civil action for damages that is 1013  
brought as the result of an injury, death, or loss to person or 1014  
property caused by an individual who a home or adult day-care 1015  
program employs in a position that involves providing direct 1016  
care to older adults, all of the following shall apply: 1017

(1) If the home or program employed the individual in good 1018

faith and reasonable reliance on the report of a criminal 1019  
records check requested under this section, the home or program 1020  
shall not be found negligent solely because of its reliance on 1021  
the report, even if the information in the report is determined 1022  
later to have been incomplete or inaccurate; 1023

(2) If the home or program employed the individual in good 1024  
faith on a conditional basis pursuant to division (C) (2) of this 1025  
section, the home or program shall not be found negligent solely 1026  
because it employed the individual prior to receiving the report 1027  
of a criminal records check requested under this section; 1028

(3) If the home or program in good faith employed the 1029  
individual according to the personal character standards 1030  
established in rules adopted under division (F) of this section, 1031  
the home or program shall not be found negligent solely because 1032  
the individual prior to being employed had been convicted of or 1033  
pleaded guilty to an offense listed or described in division (C) 1034  
(1) of this section. 1035

(I) (1) The chief administrator of a home or adult day-care 1036  
program is not required to request that the superintendent of 1037  
the bureau of criminal identification and investigation conduct 1038  
a criminal records check of an applicant if the applicant has 1039  
been referred to the home or program by an employment service 1040  
that supplies full-time, part-time, or temporary staff for 1041  
positions involving the direct care of older adults and both of 1042  
the following apply: 1043

(a) The chief administrator receives from the employment 1044  
service or the applicant a report of the results of a criminal 1045  
records check regarding the applicant that has been conducted by 1046  
the superintendent within the one-year period immediately 1047  
preceding the applicant's referral; 1048

(b) The report of the criminal records check demonstrates 1049  
that the person has not been convicted of or pleaded guilty to 1050  
an offense listed or described in division (C)(1) of this 1051  
section, or the report demonstrates that the person has been 1052  
convicted of or pleaded guilty to one or more of those offenses, 1053  
but the home or adult day-care program chooses to employ the 1054  
individual pursuant to division (F) of this section. 1055

(2) The chief administrator of a home or adult day-care 1056  
program is not required to request that the superintendent of 1057  
the bureau of criminal identification and investigation conduct 1058  
a criminal records check of an applicant and may employ the 1059  
applicant conditionally as described in this division, if the 1060  
applicant has been referred to the home or program by an 1061  
employment service that supplies full-time, part-time, or 1062  
temporary staff for positions involving the direct care of older 1063  
adults and if the chief administrator receives from the 1064  
employment service or the applicant a letter from the employment 1065  
service that is on the letterhead of the employment service, 1066  
dated, and signed by a supervisor or another designated official 1067  
of the employment service and that states that the employment 1068  
service has requested the superintendent to conduct a criminal 1069  
records check regarding the applicant, that the requested 1070  
criminal records check will include a determination of whether 1071  
the applicant has been convicted of or pleaded guilty to any 1072  
offense listed or described in division (C)(1) of this section, 1073  
that, as of the date set forth on the letter, the employment 1074  
service had not received the results of the criminal records 1075  
check, and that, when the employment service receives the 1076  
results of the criminal records check, it promptly will send a 1077  
copy of the results to the home or adult day-care program. If a 1078  
home or adult day-care program employs an applicant 1079

conditionally in accordance with this division, the employment 1080  
service, upon its receipt of the results of the criminal records 1081  
check, promptly shall send a copy of the results to the home or 1082  
adult day-care program, and division (C) (2) (b) of this section 1083  
applies regarding the conditional employment. 1084

**Sec. 3721.28.** (A) (1) Each nurse aide used by a long-term 1085  
care facility on a full-time, temporary, per diem, or other 1086  
basis on July 1, 1989, shall be provided by the facility a 1087  
competency evaluation program approved by the director of health 1088  
under division (A) of section 3721.31 of the Revised Code or 1089  
conducted by the director under division (C) of that section. 1090  
Each long-term care facility using a nurse aide on July 1, 1989, 1091  
shall provide the nurse aide the preparation necessary to 1092  
complete the competency evaluation program by January 1, 1990. 1093

(2) Each nurse aide used by a long-term care facility on a 1094  
full-time, temporary, per diem, or other basis on January 1, 1095  
1990, who either was not used by the facility on July 1, 1989, 1096  
or was used by the facility on July 1, 1989, but had not 1097  
successfully completed a competency evaluation program by 1098  
January 1, 1990, shall be provided by the facility a competency 1099  
evaluation program approved by the director under division (A) 1100  
of section 3721.31 of the Revised Code or conducted by the 1101  
director under division (C) of that section. Each long-term care 1102  
facility using a nurse aide described in division (A) (2) of this 1103  
section shall provide the nurse aide the preparation necessary 1104  
to complete the competency evaluation program by October 1, 1105  
1990, and shall assist the nurse aide in registering for the 1106  
program. 1107

(B) Effective June 1, 1990, no long-term care facility 1108  
shall use an individual as a nurse aide for more than four 1109

months unless the individual is competent to provide the 1110  
services the individual is to provide, the facility has received 1111  
from the nurse aide registry established under section 3721.32 1112  
of the Revised Code the information concerning the individual 1113  
provided through the registry, and one of the following is the 1114  
case: 1115

(1) The individual was used by a facility as a nurse aide 1116  
on a full-time, temporary, per diem, or other basis at any time 1117  
during the period commencing July 1, 1989, and ending January 1, 1118  
1990, and successfully completed, not later than October 1, 1119  
1990, a competency evaluation program approved by the director 1120  
under division (A) of section 3721.31 of the Revised Code or 1121  
conducted by the director under division (C) of that section. 1122

(2) The individual has successfully completed a training 1123  
and competency evaluation program approved by the director under 1124  
division (A) of section 3721.31 of the Revised Code or conducted 1125  
by the director under division (C) of that section or has met 1126  
the conditions specified in division (F)(1) or (2) of this 1127  
section and, in addition, if the training and competency 1128  
evaluation program or the training, instruction, or education 1129  
the individual completed in meeting the conditions specified in 1130  
division (F)(1) or (2) of this section was conducted by or in a 1131  
long-term care facility, ~~or if the director pursuant to division~~ 1132  
~~(E) of section 3721.31 of the Revised Code so requires,~~ the 1133  
individual has successfully completed a competency evaluation 1134  
program conducted by the director. 1135

(3) Prior to July 1, 1989, if the long-term care facility 1136  
is certified as a skilled nursing facility or a nursing facility 1137  
under Title XVIII or XIX of the "Social Security Act," 49 Stat. 1138  
620 (1935), 42 U.S.C.A. 301, as amended, or prior to January 1, 1139



1990, if the facility is not so certified, the individual 1140  
completed a program that the director determines included a 1141  
competency evaluation component no less stringent than the 1142  
competency evaluation programs approved by the director under 1143  
division (A) of section 3721.31 of the Revised Code or conducted 1144  
by the director under division (C) of that section, and was 1145  
otherwise comparable to the training and competency evaluation 1146  
programs being approved by the director under division (A) of 1147  
that section. 1148

(4) The individual is listed in a nurse aide registry 1149  
maintained by another state and that state certifies that its 1150  
program for training and evaluation of competency of nurse aides 1151  
complies with Titles XVIII and XIX of the "Social Security Act" 1152  
and regulations adopted thereunder. 1153

(5) Prior to July 1, 1989, the individual was found 1154  
competent to serve as a nurse aide after the completion of a 1155  
course of nurse aide training of at least one hundred hours' 1156  
duration. 1157

(6) The individual is enrolled in a prelicensure program 1158  
of nursing education approved by the board of nursing or by an 1159  
agency of another state that regulates nursing education, has 1160  
provided the long-term care facility with a certificate from the 1161  
program indicating that the individual has successfully 1162  
completed the courses that teach basic nursing skills including 1163  
infection control, safety and emergency procedures, and personal 1164  
care, and has successfully completed a competency evaluation 1165  
program conducted by the director under division (C) of section 1166  
3721.31 of the Revised Code. 1167

(7) The individual has the equivalent of twelve months or 1168  
more of full-time employment in the preceding five years as a 1169

hospital aide or orderly and has successfully completed a 1170  
competency evaluation program conducted by the director under 1171  
division (C) of section 3721.31 of the Revised Code. 1172

(8) The individual has successfully completed a 1173  
prelicensure program of nursing education approved by the board 1174  
of nursing under section 4723.06 of the Revised Code or by an 1175  
agency of another state that regulates nursing education and has 1176  
passed the examination accepted by the board of nursing under 1177  
section 4723.10 of the Revised Code, which shall be deemed as 1178  
the successful completion of a competency evaluation program 1179  
conducted by the director under division (C) of section 3721.31 1180  
of the Revised Code. 1181

(C) Effective June 1, 1990, no long-term care facility 1182  
shall continue for longer than four months to use as a nurse 1183  
aide an individual who previously met the requirements of 1184  
division (B) of this section but since most recently doing so 1185  
has not performed nursing and nursing-related services for 1186  
monetary compensation for twenty-four consecutive months, unless 1187  
the individual successfully completes additional training and 1188  
competency evaluation by complying with divisions (C) (1) and (2) 1189  
of this section: 1190

(1) Doing one of the following: 1191

(a) Successfully completing a training and competency 1192  
evaluation program approved by the director under division (A) 1193  
of section 3721.31 of the Revised Code or conducted by the 1194  
director under division (C) of that section; 1195

(b) Successfully completing a training and competency 1196  
evaluation program described in division (B) (4) of this section; 1197

(c) Meeting the requirements specified in division (B) (6) 1198

or (7) of this section. 1199

(2) If the training and competency evaluation program 1200  
completed under division (C) (1) (a) of this section was conducted 1201  
by or in a long-term care facility, ~~or if the director pursuant to~~ 1202  
~~division (E) of section 3721.31 of the Revised Code so~~ 1203  
~~requires,~~ successfully completing a competency evaluation 1204  
program conducted by the director. 1205

(D) (1) The four-month periods provided for in divisions 1206  
(B) and (C) of this section include any time, on or after June 1207  
1, 1990, that an individual is used as a nurse aide on a full- 1208  
time, temporary, per diem, or any other basis by the facility or 1209  
any other long-term care facility. 1210

(2) During the four-month period provided for in division 1211  
(B) of this section, during which a long-term care facility may, 1212  
subject to division (E) of this section, use as a nurse aide an 1213  
individual who does not have the qualifications specified in 1214  
divisions (B) (1) to (7) of this section, a facility shall 1215  
require the individual to comply with divisions (D) (2) (a) and 1216  
(b) of this section: 1217

(a) Participate in one of the following: 1218

(i) If the individual has successfully completed a 1219  
training and competency evaluation program approved by the 1220  
director under division (A) of section 3721.31 of the Revised 1221  
Code, and the program was conducted by or in a long-term care 1222  
facility, ~~or the director pursuant to division (E) of section~~ 1223  
~~3721.31 of the Revised Code so requires,~~ a competency evaluation 1224  
program conducted by the director; 1225

(ii) If the individual is enrolled in a prelicensure 1226  
program of nursing education described in division (B) (6) of 1227

this section and has completed or is working toward completion 1228  
of the courses described in that division, or the individual has 1229  
the experience described in division (B) (7) of this section, a 1230  
competency evaluation program conducted by the director; 1231

(iii) A training and competency evaluation program 1232  
approved by the director under division (A) of section 3721.31 1233  
of the Revised Code or conducted by the director under division 1234  
(C) of that section. 1235

(b) If the individual participates in or has successfully 1236  
completed a training and competency evaluation program under 1237  
division (D) (2) (a) (iii) of this section that is conducted by or 1238  
in a long-term care facility, ~~or the director pursuant to~~ 1239  
~~division (E) of section 3721.31 of the Revised Code so requires,~~ 1240  
participate in a competency evaluation program conducted by the 1241  
director. 1242

(3) During the four-month period provided for in division 1243  
(C) of this section, during which a long-term care facility may, 1244  
subject to division (E) of this section, use as a nurse aide an 1245  
individual who does not have the qualifications specified in 1246  
divisions (C) (1) and (2) of this section, a facility shall 1247  
require the individual to comply with divisions (D) (3) (a) and 1248  
(b) of this section: 1249

(a) Participate in one of the following: 1250

(i) If the individual has successfully completed a 1251  
training and competency evaluation program approved by the 1252  
director, and the program was conducted by or in a long-term 1253  
care facility, ~~or the director pursuant to division (E) of~~ 1254  
~~section 3721.31 of the Revised Code so requires,~~ a competency 1255  
evaluation program conducted by the director; 1256

(ii) If the individual is enrolled in a prelicensure program of nursing education described in division (B) (6) of this section and has completed or is working toward completion of the courses described in that division, or the individual has the experience described in division (B) (7) of this section, a competency evaluation program conducted by the director;

(iii) A training and competency evaluation program approved or conducted by the director.

(b) If the individual participates in or has successfully completed a training and competency evaluation program under division (D) (3) (a) (iii) of this section that is conducted by or in a long-term care facility, ~~or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires,~~ participate in a competency evaluation program conducted by the director.

(E) A long-term care facility shall not permit an individual used by the facility as a nurse aide while participating in a training and competency evaluation program to provide nursing and nursing-related services unless both of the following are the case:

(1) The individual has completed the number of hours of training that must be completed prior to providing services to residents as prescribed by rules that shall be adopted by the director in accordance with Chapter 119. of the Revised Code;

(2) The individual is under the personal supervision of a registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code.

(F) An individual shall be considered to have satisfied the requirement, under division (B) (2) of this section, of

having successfully completed a training and competency 1286  
evaluation program conducted or approved by the director, if 1287  
either of the following apply: 1288

(1) The individual, as of July 1, 1989, met both of the 1289  
following conditions: 1290

(a) Completed at least sixty hours divided between skills 1291  
training and classroom instruction in the topic areas described 1292  
in divisions (B) (1) to (8) of section 3721.30 of the Revised 1293  
Code; 1294

(b) Received at least the difference between seventy-five 1295  
hours and the number of hours actually spent in training and 1296  
competency evaluation in supervised practical nurse aide 1297  
training or regular in-service nurse aide education. 1298

(2) The individual meets both of the following conditions: 1299

(a) Has completed during the COVID-19 public health 1300  
emergency declared by the United States secretary of health and 1301  
human services a minimum of seventy-five hours of training that 1302  
occurs in a long-term care facility setting, includes on-site 1303  
observation and work as a nurse aide under a COVID-19 pandemic 1304  
waiver issued by the federal centers for medicare and medicaid 1305  
services, and addresses all of the required areas specified in 1306  
42 C.F.R. 483.152(b), except that if gaps in on-site training 1307  
are identified, the individual also must complete supplemental 1308  
training; 1309

(b) Has successfully completed the competency evaluation 1310  
conducted by the director of health under section 3721.31 of the 1311  
Revised Code. 1312

(G) The director shall adopt rules in accordance with 1313  
Chapter 119. of the Revised Code specifying persons, in addition 1314

to the director, who may establish competence of nurse aides 1315  
under division (B) (5) of this section, and establishing criteria 1316  
for determining whether an individual meets the conditions 1317  
specified in division (F) (1) of this section. 1318

(H) The rules adopted pursuant to divisions (E) (1) and (G) 1319  
of this section shall be no less stringent than the 1320  
requirements, guidelines, and procedures established by the 1321  
United States secretary of health and human services under 1322  
sections 1819 and 1919 of the "Social Security Act." 1323

**Sec. 3721.30.** (A) (1) A training and competency evaluation 1324  
program approved by the director of health under division (A) of 1325  
section 3721.31 of the Revised Code or a competency evaluation 1326  
program conducted by the director under division (C) of that 1327  
section shall evaluate the competency of a nurse aide in the 1328  
following areas: 1329

- (a) Basic nursing skills; 1330
- (b) Personal care skills; 1331
- (c) Recognition of mental health and social service needs; 1332
- (d) Care of residents with cognitive impairments; 1333
- (e) Basic restorative services; 1334
- (f) Residents' rights; 1335
- (g) Any other area specified by rule of the director. 1336

(2) Any training and competency evaluation program 1337  
approved or competency evaluation program conducted by the 1338  
director may include a written examination, but shall permit a 1339  
nurse aide, at the nurse aide's option, to establish competency 1340  
in another manner approved by the director. A nurse aide shall 1341

be permitted to have the competency evaluation conducted at the 1342  
long-term care facility at which the nurse aide is or will be 1343  
employed, unless the facility has been determined by the 1344  
director or the United States secretary of health and human 1345  
services to have been out of compliance with the requirements of 1346  
subsection (b), (c), or (d) of section 1819 or 1919 of the 1347  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 1348  
amended, within the previous two years. 1349

(B) A training and competency evaluation program approved 1350  
or conducted by the director under section 3721.31 of the 1351  
Revised Code shall consist of training and competency evaluation 1352  
specified by the director in rules adopted under division (C) of 1353  
this section, including a minimum of seventy-five hours divided 1354  
between skills training and classroom instruction in the 1355  
following topic areas: 1356

(1) Basic nursing skills; 1357

(2) Personal care skills; 1358

(3) Recognition of mental health and social service needs; 1359

(4) Care of residents with cognitive impairments; 1360

(5) Basic restorative services; 1361

(6) Residents' rights; 1362

(7) Needs of various groups of long-term care facility 1363  
residents and patients; 1364

(8) Other topic areas specified by rule of the director. 1365

(C) In accordance with Chapter 119. of the Revised Code, 1366  
the director shall adopt rules establishing procedures and 1367  
criteria for approval of ~~competency evaluation programs and~~ 1368



training and competency evaluation programs. The requirements 1369  
established by rules shall be no less stringent than the 1370  
requirements, guidelines, and procedures established by the 1371  
United States secretary of health and human services under 1372  
sections 1819 and 1919 of the "Social Security Act." The 1373  
director also shall adopt rules governing all of the following: 1374

(1) Procedures for determination of an individual's 1375  
competency to perform services as a nurse aide; 1376

(2) The curriculum of training and competency evaluation 1377  
programs; 1378

(3) The clinical supervision and physical facilities used 1379  
for ~~competency evaluation programs and training and competency~~ 1380  
evaluation programs; 1381

(4) The number of hours of training required in training 1382  
and competency evaluation programs; 1383

(5) The qualifications for instructors, coordinators, and 1384  
evaluators of ~~competency evaluation programs and training and~~ 1385  
competency evaluation programs, except that the rules shall not 1386  
require an instructor for a training and competency evaluation 1387  
program to have nursing home experience if the program is under 1388  
the general supervision of a coordinator who is a registered 1389  
nurse who possesses a minimum of two years of nursing 1390  
experience, at least one of which is in the provision of 1391  
services in a nursing home or intermediate care facility for 1392  
individuals with intellectual disabilities; 1393

(6) Requirements that ~~approved competency evaluation~~ 1394  
~~programs and training and competency evaluation programs~~ must 1395  
meet to retain approval; 1396

(7) Standards for successful completion of a ~~competency~~ 1397

<del>evaluation program or training and competency evaluation</del>	1398
<del>program;</del>	1399
(8) Procedures and criteria for review and reapproval of	1400
<del>competency evaluation programs and training and competency</del>	1401
<del>evaluation programs;</del>	1402
(9) Fees for application for approval or reapproval of	1403
<del>competency evaluation programs, training and competency</del>	1404
<del>evaluation programs, and programs to train instructors and,</del>	1405
<del>coordinators, and evaluators for training and competency</del>	1406
<del>evaluation programs and evaluators for competency evaluation</del>	1407
<del>programs;</del>	1408
(10) Fees for participation in any <del>competency evaluation</del>	1409
<del>program, training and competency evaluation program, or other</del>	1410
<del>program conducted by the director under section 3721.31 of the</del>	1411
<del>Revised Code;</del>	1412
(11) Procedures for reporting to the nurse aide registry	1413
established under section 3721.32 of the Revised Code whether or	1414
not individuals participating in <del>competency evaluation programs</del>	1415
<del>and training and competency evaluation programs have</del>	1416
successfully completed the programs.	1417
(D) In accordance with Chapter 119. of the Revised Code,	1418
the director may adopt rules prescribing criteria and procedures	1419
for approval of training programs for instructors <del>and,</del>	1420
<del>coordinators, and evaluators for <u>competency evaluation programs</u></del>	1421
<del>and training and competency evaluation programs, and for</del>	1422
<del>evaluators for competency evaluation programs. The director may</del>	1423
adopt other rules that the director considers necessary for the	1424
administration and enforcement of sections 3721.28 to 3721.34 of	1425
the Revised Code or for compliance with requirements,	1426

guidelines, or procedures issued by the United States secretary 1427  
of health and human services for implementation of section 1819 1428  
or 1919 of the "Social Security Act." 1429

(E) No person or government entity shall impose on a nurse 1430  
aide any charge for participation in any competency evaluation 1431  
program or training and competency evaluation program approved 1432  
or conducted by the director under section 3721.31 of the 1433  
Revised Code, including any charge for textbooks, other required 1434  
course materials, or a competency evaluation. 1435

(F) No person or government entity shall require that an 1436  
individual used by the person or government entity as a nurse 1437  
aide or seeking employment as a nurse aide pay or repay, either 1438  
before or while the individual is employed by the person or 1439  
government entity or when the individual leaves the person or 1440  
government entity's employ, any costs associated with the 1441  
individual's participation in a competency evaluation program or 1442  
training and competency evaluation program approved or conducted 1443  
by the director. 1444

**Sec. 3721.31.** (A) (1) ~~Except as provided in division (E) of~~ 1445  
~~this section, the~~ The director of health shall approve 1446  
~~competency evaluation programs and~~ training and competency 1447  
evaluation programs in accordance with rules adopted under 1448  
section 3721.30 of the Revised Code and shall periodically 1449  
review and reapprove programs approved under this section. 1450

(2) Except as otherwise provided in division (A) (3) of 1451  
this section, the director may approve and reapprove programs 1452  
conducted by or in long-term care facilities, or by any 1453  
government agency or person, including an employee organization. 1454

(3) The director shall not approve or reapprove a 1455

~~competency evaluation program or training and competency~~ 1456  
evaluation program conducted by or in a long-term care facility 1457  
that was determined by the director or the United States 1458  
secretary of health and human services to have been out of 1459  
compliance with the requirements of subsection (b), (c), or (d) 1460  
of section 1819 or 1919 of the "Social Security Act," 49 Stat. 1461  
620 (1935), 42 U.S.C.A. 301, as amended, within a two-year 1462  
period prior to making application for approval or reapproval 1463  
and shall revoke the approval or reapproval of a program 1464  
conducted by or in a facility for which such a determination is 1465  
made. This division does not apply to a program conducted by or 1466  
in a long-term care facility to which the United States centers 1467  
for medicare and medicaid services granted a waiver of the 1468  
prohibition on training and competency programs. 1469

(4) A long-term care facility, employee organization, 1470  
person, or government entity seeking approval or reapproval of a 1471  
~~competency evaluation program or training and competency~~ 1472  
evaluation program shall make an application to the director for 1473  
approval or reapproval of the program and shall provide any 1474  
documentation requested by the director. 1475

(5) The director may conduct inspections and examinations 1476  
of approved ~~competency evaluation programs and training and~~ 1477  
competency evaluation programs, ~~competency evaluation programs~~ 1478  
~~and training and competency evaluation programs~~ for which an 1479  
application for approval has been submitted under division (A) 1480  
(4) of this section, and the sites at which they are or will be 1481  
conducted. The director may conduct inspections of long-term 1482  
care facilities in which individuals who have participated in 1483  
approved ~~competency evaluation programs and training and~~ 1484  
competency evaluation programs are being used as nurse aides. 1485

(B) In accordance with Chapter 119. of the Revised Code, 1486  
the director may do the following: 1487

(1) Deny, suspend, or revoke approval or reapproval of any 1488  
of the following that is not in compliance with this section and 1489  
section 3721.30 of the Revised Code and rules adopted 1490  
thereunder: 1491

(a) ~~A competency evaluation program;~~ 1492

~~(b) A training and competency evaluation program;~~ 1493

~~(c) (b) A training program for instructors or, 1494  
coordinators, or evaluators for training and competency 1495  
evaluation programs;~~ 1496

~~(d) A training program for evaluators for competency 1497  
evaluation programs.~~ 1498

(2) Deny a request that the director determine any of the 1499  
following for the purposes of division (B) of section 3721.28 of 1500  
the Revised Code: 1501

(a) That a program completed prior to the dates specified 1502  
in division (B) (3) of section 3721.28 of the Revised Code 1503  
included a competency evaluation component no less stringent 1504  
than the competency evaluation programs approved or conducted by 1505  
the director under this section, and was otherwise comparable to 1506  
the training and competency evaluation programs being approved 1507  
under this section; 1508

(b) That an individual satisfies division (B) (5) of 1509  
section 3721.28 of the Revised Code; 1510

(c) That an individual meets the conditions specified in 1511  
division (F) (1) or (2) of section 3721.28 of the Revised Code. 1512

(C) The director may develop and conduct a competency 1513  
evaluation program for individuals used by long-term care 1514  
facilities as nurse aides at any time during the period 1515  
commencing July 1, 1989, and ending January 1, 1990, and 1516  
individuals who participate in training and competency 1517  
evaluation programs conducted in or by long-term care 1518  
facilities. The director also may conduct other competency 1519  
evaluation programs and training and competency evaluation 1520  
programs. When conducting competency evaluation programs and 1521  
training and competency evaluation programs, the both of the 1522  
following apply: 1523

(1) The director may use a nurse aide competency 1524  
evaluation prepared by a testing service, and may contract with 1525  
the service to administer the evaluation pursuant to section 1526  
3701.044 of the Revised Code. 1527

(2) The director shall permit a training and competency 1528  
evaluation program approved under division (A) of this section, 1529  
other than a program operated by a nursing home, to perform 1530  
competency evaluations if the program complies with federal laws 1531  
and regulations relating to competency evaluations. A nursing 1532  
home may proctor a competency evaluation under the circumstances 1533  
specified in federal laws and regulations. 1534

(D) The director may approve or conduct programs to train 1535  
instructors ~~and, coordinators, and evaluators~~ for training and 1536  
competency evaluation programs ~~and evaluators for competency~~ 1537  
~~evaluation programs~~. The director may conduct inspections and 1538  
examinations of those programs that have been approved by the 1539  
director or for which an application for approval has been 1540  
submitted, and the sites at which the programs are or will be 1541  
conducted. The director shall not restrict participation in a 1542

training program for instructors to individuals who have 1543  
experience working in a nursing home. 1544

~~(E) Notwithstanding division (A) of this section and~~ 1545  
~~division (C) of section 3721.30 of the Revised Code, the~~ 1546  
~~director, in the director's discretion, may decline to approve~~ 1547  
~~any competency evaluation programs. The director may require all~~ 1548  
~~individuals used by long term care facilities as nurse aides~~ 1549  
~~after June 1, 1990, who have completed a training and competency~~ 1550  
~~evaluation program approved by the director under division (A)~~ 1551  
~~of this section or who have met the conditions specified in~~ 1552  
~~division (F) (1) or (2) of section 3721.28 of the Revised Code to~~ 1553  
~~complete a competency evaluation program conducted by the~~ 1554  
~~director under division (C) of this section. The director also~~ 1555  
~~may require all individuals used as nurse aides by long term~~ 1556  
~~care facilities after June 1, 1990, who were used by a facility~~ 1557  
~~at any time during the period commencing July 1, 1989, and~~ 1558  
~~ending January 1, 1990, to complete a competency evaluation~~ 1559  
~~program conducted by the director under division (C) of this~~ 1560  
~~section rather than a competency evaluation program approved by~~ 1561  
~~the director under division (A) of this section.~~ 1562

~~(F)~~The test materials, examinations, or evaluation tools 1563  
used in any competency evaluation program or training and 1564  
competency evaluation program that the director conducts or 1565  
approves under this section are subject to the confidentiality 1566  
provisions of section 3701.044 of the Revised Code. 1567

~~(G)~~(F) The director shall impose fees prescribed by rules 1568  
adopted under section 3721.30 of the Revised Code for both of 1569  
the following: 1570

(1) Making application for approval or reapproval of 1571  
either of the following: 1572

(a) A ~~competency evaluation program or a~~ training and 1573  
competency evaluation program; 1574

(b) A training program for instructors ~~or~~, coordinators, 1575  
or evaluators for training and competency evaluation programs, ~~or~~ 1576  
~~or evaluators for competency evaluation programs;~~ 1577

(2) Participation in any competency evaluation program, 1578  
training and competency evaluation program, or other program 1579  
conducted by the director under this section. 1580

(G) If the rules require a participant to furnish a social 1581  
security number, the director shall supply a unique identifier 1582  
to any participant who does not have a social security number. 1583  
If a participant receives a unique identifier from the director 1584  
and subsequently receives a social security number, the 1585  
participant shall submit the number to the director. 1586

**Sec. 3721.32.** (A) The director of health shall establish a 1587  
state nurse aide registry listing all individuals who have done 1588  
any of the following: 1589

(1) Were used by a long-term care facility as nurse aides 1590  
on a full-time, temporary, per diem, or other basis at any time 1591  
during the period commencing July 1, 1989, and ending January 1, 1592  
1990, and successfully completed, not later than October 1, 1593  
1990, a competency evaluation program approved by the director 1594  
under division (A) of section 3721.31 of the Revised Code or 1595  
conducted by the director under division (C) of that section; 1596

(2) Successfully completed a training and competency 1597  
evaluation program approved by the director under division (A) 1598  
of section 3721.31 of the Revised Code or met the conditions 1599  
specified in division (F) (1) or (2) of section 3721.28 of the 1600  
Revised Code, and, if the training and competency evaluation 1601



program or the training, instruction, or education the 1602  
individual completed in meeting the conditions specified in 1603  
division (F) (1) of section 3721.28 of the Revised Code was 1604  
conducted in or by a long-term care facility, ~~or if the director~~ 1605  
~~so required pursuant to division (E) of section 3721.31 of the~~ 1606  
~~Revised Code,~~ has successfully completed a competency evaluation 1607  
program conducted by the director; 1608

(3) Successfully completed a training and competency 1609  
evaluation program conducted by the director under division (C) 1610  
of section 3721.31 of the Revised Code; 1611

(4) Successfully completed, prior to July 1, 1989, a 1612  
program that the director has determined under division (B) (3) 1613  
of section 3721.28 of the Revised Code included a competency 1614  
evaluation component no less stringent than the competency 1615  
evaluation programs approved or conducted by the director under 1616  
section 3721.31 of the Revised Code, and was otherwise 1617  
comparable to the training and competency evaluation program 1618  
being approved by the director under section 3721.31 of the 1619  
Revised Code; 1620

(5) Are listed in a nurse aide registry maintained by 1621  
another state that certifies that its program for training and 1622  
evaluation of competency of nurse aides complies with Titles 1623  
XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 1624  
42 U.S.C.A. 301, as amended, or regulations adopted thereunder; 1625

(6) Were found competent, as provided in division (B) (5) 1626  
of section 3721.28 of the Revised Code, prior to July 1, 1989, 1627  
after the completion of a course of nurse aide training of at 1628  
least one hundred hours' duration; 1629

(7) Are enrolled in a prelicensure program of nursing 1630

education approved by the board of nursing or by an agency of 1631  
another state that regulates nursing education, have provided 1632  
the long-term care facility with a certificate from the program 1633  
indicating that the individual has successfully completed the 1634  
courses that teach basic nursing skills including infection 1635  
control, safety and emergency procedures, and personal care, and 1636  
have successfully completed a competency evaluation program 1637  
conducted by the director under division (A) of section 3721.31 1638  
of the Revised Code; 1639

(8) Have the equivalent of twelve months or more of full- 1640  
time employment in the five years preceding listing in the 1641  
registry as a hospital aide or orderly and have successfully 1642  
completed a competency evaluation program conducted by the 1643  
director under division (C) of section 3721.31 of the Revised 1644  
Code; 1645

(9) Successfully completed a prelicensure program of 1646  
nursing education approved by the board of nursing under section 1647  
4723.06 of the Revised Code or by an agency of another state 1648  
that regulates nursing education and passed the examination 1649  
accepted by the board of nursing under section 4723.10 of the 1650  
Revised Code, which shall be deemed as successfully completing a 1651  
competency evaluation program conducted by the director under 1652  
division (C) of section 3721.31 of the Revised Code. 1653

(B) In addition to the list of individuals required by 1654  
division (A) of this section, the registry shall include both of 1655  
the following: 1656

(1) The statement required by section 3721.23 of the 1657  
Revised Code detailing findings by the director under that 1658  
section regarding alleged abuse, neglect, or exploitation of a 1659  
resident or misappropriation of resident property; 1660

(2) Any statement provided by an individual under section 1661  
3721.23 of the Revised Code disputing the director's findings. 1662

Whenever an inquiry is received as to the information 1663  
contained in the registry concerning an individual about whom a 1664  
statement required by section 3721.23 of the Revised Code is 1665  
included in the registry, the director shall disclose the 1666  
statement or a summary of the statement together with any 1667  
statement provided by the individual under section 3721.23 or a 1668  
clear and accurate summary of that statement. 1669

(C) The director may by rule specify additional 1670  
information that must be provided to the registry by long-term 1671  
care facilities and persons or government agencies conducting 1672  
approved ~~competency evaluation programs and training and~~ 1673  
competency evaluation programs. 1674

(D) Information contained in the registry is a public 1675  
record for the purposes of section 149.43 of the Revised Code, 1676  
and is subject to inspection and copying under section 1347.08 1677  
of the Revised Code. 1678

(E) An individual who is listed on the registry shall be 1679  
referred to as a certified nurse aide. Only individuals listed 1680  
on the registry shall use the designation "certified nurse aide" 1681  
or "CNA." 1682

**Sec. 4723.32.** This chapter does not prohibit any of the 1683  
following: 1684

(A) The practice of nursing by a student currently 1685  
enrolled in and actively pursuing completion of a prelicensure 1686  
nursing education program, if all of the following are the case: 1687

(1) The student is participating in a program located in 1688  
this state and approved by the board of nursing or participating 1689

in this state in a component of a program located in another 1690  
jurisdiction and approved by a board that is a member of the 1691  
national council of state boards of nursing; 1692

(2) The student's practice is under the auspices of the 1693  
program; 1694

(3) The student acts under the supervision of a registered 1695  
nurse serving for the program as a faculty member or teaching 1696  
assistant. 1697

(B) The rendering of medical assistance to a licensed 1698  
physician, licensed dentist, or licensed podiatrist by a person 1699  
under the direction, supervision, and control of such licensed 1700  
physician, dentist, or podiatrist; 1701

(C) The activities of persons employed as nursing aides, 1702  
attendants, orderlies, or other auxiliary workers in patient 1703  
homes, nurseries, nursing homes, hospitals, home health 1704  
agencies, or other similar institutions; 1705

(D) The provision of nursing services to family members or 1706  
in emergency situations; 1707

(E) The care of the sick when done in connection with the 1708  
practice of religious tenets of any church and by or for its 1709  
members; 1710

(F) The practice of nursing as an advanced practice 1711  
registered nurse by a student currently enrolled in and actively 1712  
pursuing completion of a program of study leading to initial 1713  
authorization by the board of nursing to practice nursing as an 1714  
advanced practice registered nurse in a designated specialty, if 1715  
all of the following are the case: 1716

(1) The program qualifies the student to sit for the 1717

examination of a national certifying organization approved by 1718  
the board under section 4723.46 of the Revised Code or the 1719  
program prepares the student to receive a master's or doctoral 1720  
degree in accordance with division (A) (2) of section 4723.41 of 1721  
the Revised Code; 1722

(2) The student's practice is under the auspices of the 1723  
program; 1724

(3) The student acts under the supervision of an advanced 1725  
practice registered nurse serving for the program as a faculty 1726  
member, teaching assistant, or preceptor. 1727

(G) The activities of an individual who is a resident of a 1728  
state other than this state and who currently holds a license to 1729  
practice nursing or equivalent authorization from another 1730  
jurisdiction, but only if the individual's activities are 1731  
limited to those activities that the same type of nurse may 1732  
engage in pursuant to a license issued under this chapter, the 1733  
individual's authority to practice has not been revoked, the 1734  
individual is not currently under suspension or on probation, 1735  
the individual does not represent the individual as being 1736  
licensed under this chapter, and one of the following is the 1737  
case: 1738

(1) The individual is engaging in the practice of nursing 1739  
by discharging official duties while employed by or under 1740  
contract with the United States government or any agency 1741  
thereof; 1742

(2) The individual is engaging in the practice of nursing 1743  
as an employee of an individual, agency, or corporation located 1744  
in the other jurisdiction in a position with employment 1745  
responsibilities that include transporting patients into, out 1746

of, or through this state, as long as each trip in this state 1747  
does not exceed seventy-two hours; 1748

(3) The individual is consulting with an individual 1749  
licensed in this state to practice any health-related 1750  
profession; 1751

(4) The individual is engaging in activities associated 1752  
with teaching in this state as a guest lecturer at or for a 1753  
nursing education program, continuing nursing education program, 1754  
or in-service presentation; 1755

(5) The individual is conducting evaluations of nursing 1756  
care that are undertaken on behalf of an accrediting 1757  
organization, including the national league for nursing 1758  
accrediting committee, the joint commission (formerly known as 1759  
the joint commission on accreditation of healthcare 1760  
organizations), or any other nationally recognized accrediting 1761  
organization; 1762

(6) The individual is providing nursing care to an 1763  
individual who is in this state on a temporary basis, not to 1764  
exceed six months in any one calendar year, if the nurse is 1765  
directly employed by or under contract with the individual or a 1766  
guardian or other person acting on the individual's behalf; 1767

(7) The individual is providing nursing care during any 1768  
disaster, natural or otherwise, that has been officially 1769  
declared to be a disaster by a public announcement issued by an 1770  
appropriate federal, state, county, or municipal official; 1771

(8) The individual is providing nursing care at a free-of- 1772  
charge camp accredited by the SeriousFun children's network that 1773  
specializes in providing therapeutic recreation, as defined in 1774  
section 2305.231 of the Revised Code, for individuals with 1775

chronic diseases, if all of the following are the case:	1776
(a) The individual provides documentation to the medical director of the camp that the individual holds a current, valid license to practice nursing or equivalent authorization from another jurisdiction.	1777 1778 1779 1780
(b) The individual provides nursing care only at the camp or in connection with camp events or activities that occur off the grounds of the camp.	1781 1782 1783
(c) The individual is not compensated for the individual's services.	1784 1785
(d) The individual provides nursing care within this state for not more than thirty days per calendar year.	1786 1787
(e) The camp has a medical director who holds an unrestricted license to practice medicine issued in accordance with Chapter 4731. of the Revised Code.	1788 1789 1790
(9) The individual is providing nursing care as a volunteer without remuneration during a charitable event that lasts not more than seven days if both of the following are the case:	1791 1792 1793 1794
(a) The individual, or the charitable event's organizer, notifies the board of nursing not less than seven calendar days before the first day of the charitable event of the individual's intent to engage in the practice of nursing as a registered nurse, advanced practice registered nurse, or licensed practical nurse at the event;	1795 1796 1797 1798 1799 1800
(b) If the individual's scope of practice in the other jurisdiction is more restrictive than in this state, the individual is limited to performing only those procedures that a	1801 1802 1803

registered nurse, advanced practice registered nurse, or 1804  
licensed practical nurse in the other jurisdiction may perform. 1805

(H) The administration of medication by an individual who 1806  
holds a valid medication aide certificate issued under this 1807  
chapter, if the medication is administered to a resident of a 1808  
nursing home, or residential care facility, ~~or ICF/IID~~ 1809  
~~authorized by section 4723.64 of the Revised Code to use a~~ 1810  
~~certified medication aide~~ and the medication is administered in 1811  
accordance with section 4723.67 of the Revised Code. 1812

(I) An individual who is a resident of a state other than 1813  
this state and who holds a license to practice nursing or 1814  
equivalent authorization from another jurisdiction is not 1815  
required to obtain a license in accordance with Chapter 4796. of 1816  
the Revised Code to perform the activities described under 1817  
division (G) of this section. 1818

**Sec. 4723.61.** As used in this section and in sections 1819  
4723.64 to 4723.69 of the Revised Code: 1820

(A) ~~"Intermediate care facility for individuals with~~ 1821  
~~intellectual disabilities" and "ICF/IID" have the same meanings~~ 1822  
~~as in section 5124.01 of the Revised Code.~~ "Contact hour" means 1823  
sixty minutes of continuing education, which may be determined 1824  
by rounding to the nearest quarter hour. 1825

(B) "Medication" means a drug, as defined in section 1826  
4729.01 of the Revised Code. 1827

(C) ~~"Medication error" means a failure to follow the~~ 1828  
~~prescriber's instructions when administering a prescription~~ 1829  
~~medication.~~ 1830

~~(D)~~ "Nursing home" and "residential care facility" have 1831  
the same meanings as in section 3721.01 of the Revised Code. 1832



~~(E)~~ (D) "Prescription medication" means a medication that 1833  
may be dispensed only pursuant to a prescription. 1834

~~(F)~~ (E) "Prescriber" and "prescription" have the same 1835  
meanings as in section 4729.01 of the Revised Code. 1836

**Sec. 4723.64.** A nursing home, or residential care 1837  
facility, ~~or ICF/IID~~ may use one or more medication aides to 1838  
administer prescription medications to its residents, subject to 1839  
both of the following conditions: 1840

(A) Each individual used as a medication aide must hold a 1841  
current, valid medication aide certificate issued by the board 1842  
of nursing under this chapter. 1843

(B) The nursing home, or residential care facility, ~~or~~ 1844  
~~ICF/IID~~ shall ensure that the requirements of section 4723.67 of 1845  
the Revised Code are met. 1846

**Sec. 4723.65.** An individual seeking certification as a 1847  
medication aide shall apply to the board of nursing on a form 1848  
prescribed and provided by the board. The application shall be 1849  
accompanied by ~~the a~~ certification fee ~~established in rules~~ 1850  
~~adopted under section 4723.69 of the Revised Code of fifty~~ 1851  
dollars. 1852

**Sec. 4723.651.** (A) To be eligible to receive a medication 1853  
aide certificate, an applicant shall meet all of the following 1854  
conditions: 1855

(1) Be at least eighteen years of age; 1856

(2) Have a high school diploma or a certificate of high 1857  
school equivalence as defined in section 5107.40 of the Revised 1858  
Code; 1859

~~(3) If the applicant is to practice as a medication aide~~ 1860

~~in a nursing home, be a nurse aide who satisfies the~~ 1861  
~~requirements of division (A) (1), (2), (3), (4), (5), (6), or (8)~~ 1862  
~~of section 3721.32 of the Revised Code;~~ 1863

~~(4) If the applicant is to practice as a medication aide~~ 1864  
~~in a residential care facility, be a nurse aide who satisfies~~ 1865  
~~the requirements of division (A) (1), (2), (3), (4), (5), (6), or~~ 1866  
~~(8) of section 3721.32 of the Revised Code or an individual who~~ 1867  
~~has at least one year of direct care experience in a residential~~ 1868  
~~care facility;~~ 1869

~~(5) If the applicant is to practice as a medication aide~~ 1870  
~~in an ICF/IID, be a nurse aide who satisfies the requirements of~~ 1871  
~~division (A) (1), (2), (3), (4), (5), (6), or (8) of section~~ 1872  
~~3721.32 of the Revised Code or an individual who has at least~~ 1873  
~~one year of direct care experience in an ICF/IID;~~ 1874

~~(6) Successfully complete the course of instruction~~ 1875  
~~provided by a training program approved under section 4723.66 of~~ 1876  
~~the Revised Code;~~ 1877

~~(7) Not be ineligible for licensure or certification in~~ 1878  
~~accordance with section 4723.092 of the Revised Code;~~ 1879

~~(8) Have not committed any act that is grounds for~~ 1880  
~~disciplinary action under section 3123.47 or 4723.28 of the~~ 1881  
~~Revised Code or be determined by the board to have made~~ 1882  
~~restitution, been rehabilitated, or both;~~ 1883

~~(9) (4) Meet all other the requirements for a medication~~ 1884  
~~aide certificate established in rules adopted providing direct~~ 1885  
~~care under section 4723.69 of the Revised Code.~~ 1886

(B) Except as provided in division (C) of this section, if 1887  
an applicant meets the requirements specified in division (A) of 1888  
this section, the board of nursing shall issue a medication aide 1889

~~certificate to the applicant. If a medication aide certificate is issued to an individual on the basis of having at least one year of direct care experience working in a residential care facility, as provided in division (A) (4) of this section, the certificate is valid for use only in a residential care facility. If a medication aide certificate is issued to an individual on the basis of having at least one year of direct care experience working in an ICF/IID, as provided in division (A) (5) of this section, the certificate is valid for use only in an ICF/IID. The board shall state the limitation on the certificate issued to the individual.~~

(C) The board shall issue a medication aide certificate in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a certificate or license in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as a medication aide in a state that does not issue that certificate or license.

~~(D) A medication aide certificate is valid for two years, unless earlier suspended or revoked. The certificate may be renewed in accordance with procedures specified by the board in rules adopted under section 4723.69 of the Revised Code. To be eligible for renewal, an applicant shall pay the renewal fee established in the rules and meet all renewal qualifications specified in the rules. All of the following apply to renewal:~~

(1) The board shall provide each holder of a medication aide certificate the option to renew through the mail or by

accessing, completing, and submitting a renewal application 1919  
online. The board is not required to provide an individual such 1920  
options if it is aware that the holder is ineligible for 1921  
renewal. 1922

(2) To be eligible for renewal, an applicant shall do all 1923  
of the following: 1924

(a) Submit on or before the thirtieth day of April of an 1925  
even-numbered year a completed renewal application; 1926

(b) Pay the renewal fee in an amount as follows: 1927

(i) For an application submitted on or before the first 1928  
day of March of an even-numbered year, fifty dollars; 1929

(ii) For an application submitted after the first day of 1930  
March, but before the first day of May, of an even-numbered 1931  
year, one hundred dollars. 1932

(c) Demonstrate to the board that the applicant 1933  
successfully completed eight contact hours that included at 1934  
least the following: 1935

(i) One hour directly related to this chapter and any 1936  
rules adopted under it; 1937

(ii) One hour directly related to establishing and 1938  
maintaining professional boundaries; 1939

(iii) Six hours related to medications or the 1940  
administration of prescription medications. 1941

**Sec. 4723.653.** (A) A person who holds a current, valid 1942  
certificate as a medication aide shall be known as a "certified 1943  
medication aide" or "CMA." The board of nursing shall establish 1944  
and maintain a registry of certified medication aides and make 1945

the registry available on its internet web site. 1946

(B) No person shall engage in the administration of 1947  
medication as a medication aide, represent the person as being a 1948  
certified medication aide, or use the title, "medication aide," 1949  
or any other title implying that the person is a certified 1950  
medication aide, for a fee, salary, or other compensation, or as 1951  
a volunteer, without holding a current, valid certificate as a 1952  
medication aide under this chapter. 1953

~~(B)~~ (C) No person shall employ a person not certified as a 1954  
medication aide under this chapter to engage in the 1955  
administration of medication as a medication aide. 1956

**Sec. 4723.66.** (A) A person or government entity seeking 1957  
approval to provide a medication aide training program shall 1958  
apply to the board of nursing on a form prescribed and provided 1959  
by the board. The application shall be accompanied by ~~the a fee~~ 1960  
~~established in rules adopted under section 4723.69 of the~~ 1961  
~~Revised Code~~ fifty dollars. 1962

(B) Except as provided in division (C) of this section, 1963  
the board shall approve the applicant to provide a medication 1964  
aide training program if the content of the course of 1965  
instruction to be provided by the program ~~meets the standards~~ 1966  
~~specified by the board in rules adopted under section 4723.69 of~~ 1967  
~~the Revised Code and~~ includes all of the following: 1968

(1) ~~At least seventy~~ Thirty clock-hours of instruction in 1969  
medication administration, including both classroom instruction 1970  
~~on medication administration and at least twenty sixteen~~ clock- 1971  
hours of supervised clinical practice ~~in medication~~ 1972  
administration; 1973

(2) A mechanism for evaluating whether an individual's 1974

reading, writing, and mathematical skills are sufficient for the 1975  
individual to be able to administer prescription medications 1976  
safely; 1977

(3) An examination that tests the ability to administer 1978  
prescription medications safely ~~and that meets the requirements~~ 1979  
~~established by the board in rules adopted under section 4723.69~~ 1980  
~~of the Revised Code. The examination may be administered by the~~ 1981  
program that provides the instruction required by division (B) 1982  
(1) of this section. 1983

(C) The board shall deny the application for approval if 1984  
an applicant submits or causes to be submitted to the board 1985  
false, misleading, or deceptive statements, information, or 1986  
documentation in the process of applying for approval of the 1987  
program. 1988

~~(D)(1)~~ (D) The board may deny, suspend, or revoke the 1989  
approval granted to a medication aide training program for 1990  
~~reasons specified in rules adopted under section 4723.69 of the~~ 1991  
Revised Code failure to meet any of the standards specified in 1992  
division (B) of this section. 1993

~~(2)~~ The board may deny the application for approval if the 1994  
program is controlled by a person who controls or has controlled 1995  
a program that had its approval withdrawn, revoked, suspended, 1996  
or restricted by the board or a board of another jurisdiction 1997  
that is a member of the national council of state boards of 1998  
nursing. As used in division ~~(D)(2)~~ of this section, "control" 1999  
means any of the following: 2000

~~(a) Holding fifty per cent or more of the program's~~ 2001  
~~outstanding voting securities or membership interest;~~ 2002

~~(b) In the case of a program that is not incorporated,~~ 2003

~~having the right to fifty per cent or more of the program's profits or in the event of a dissolution, fifty per cent or more of the program's assets;~~ 2004  
2005  
2006

~~(c) In the case of a program that is a for-profit or not-for-profit corporation, having the contractual authority presently to designate fifty per cent or more of the program's directors;~~ 2007  
2008  
2009  
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~~(d) In the case of a program that is a trust, having the contractual authority presently to designate fifty per cent or more of the program's trustees;~~ 2011  
2012  
2013

~~(e) Having the authority to direct the program's management, policies, or investments.~~ 2014  
2015

~~(E) Except as otherwise provided in this division, all~~ All 2016  
actions taken by the board to deny, suspend, or revoke the 2017  
approval of a training program shall be taken in accordance with 2018  
Chapter 119. of the Revised Code. 2019

~~When an action taken by the board is required to be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, the board may, in lieu of an adjudication hearing, enter into a consent agreement to resolve the matter. A consent agreement, when ratified by a vote of a quorum of the board, constitutes the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement are of no effect.~~ 2020  
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~~In any instance in which the board is required under Chapter 119. of the Revised Code to give notice to a program of an opportunity for a hearing and the program does not make a timely request for a hearing in accordance with section 119.07-~~ 2029  
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~~of the Revised Code, the board is not required to hold a hearing, but may adopt, by a vote of a quorum, a final order that contains the board's findings.~~ 2033  
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~~(F) When the board denies, suspends, or revokes approval of a program, the board may specify that its action is permanent. A program subject to a permanent action taken by the board is forever ineligible for approval and the board shall not accept an application for the program's reinstatement or approval.~~ 2036  
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**Sec. 4723.67.** ~~(A) Except for the prescription medications specified in division (C) of this section and the methods of medication administration specified in division (D) of In accordance with this section, a medication aide who holds a current, valid medication aide certificate issued under this chapter may administer prescription medications to the residents of nursing homes, and residential care facilities, and ICFs/IID that use medication aides pursuant to section 4723.64 of the Revised Code. A medication aide shall administer prescription medications but only pursuant to the delegation supervision of a registered nurse or a licensed practical nurse acting at the direction of a registered nurse.~~ 2042  
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~~Delegation of medication administration to a medication aide shall be carried out in accordance with the rules for nursing delegation adopted under this chapter by the board of nursing. A nurse who has delegated to a medication aide responsibility for the administration of prescription medications to the residents of a nursing home, residential care facility, or ICF/IID shall not withdraw the delegation on an arbitrary basis or for any purpose other than patient safety.~~ 2054  
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(B) In exercising the authority to administer prescription 2062



medications pursuant to nursing ~~delegation~~supervision, a 2063  
medication aide may administer prescription medications in any 2064  
of the following categories: 2065

- (1) Oral medications; 2066
- (2) Topical medications; 2067
- (3) Medications administered as drops to the eye, ear, or 2068  
nose; 2069
- (4) Rectal and vaginal medications; 2070
- (5) Medications prescribed with a designation authorizing 2071  
or requiring administration on an as-needed basis, ~~but only if a~~ 2072  
~~nursing assessment of the patient is completed before the~~ 2073  
~~medication is administered regardless of whether the supervising~~ 2074  
~~nurse is present at the facility.~~ 2075

(C) A medication aide shall not administer prescription 2076  
medications ~~in either of the following categories:~~ 2077

- ~~(1) Medications containing a schedule II controlled~~ 2078  
~~substance, as defined in section 3719.01 of the Revised Code,~~ 2079
- ~~(2) Medications requiring dosage calculations.~~ 2080

(D) A medication aide shall not administer prescription 2081  
medications by any of the following methods: 2082

- (1) Injection, except for insulin as provided in division 2083  
(E) of this section; 2084
- (2) Intravenous therapy procedures; 2085
- (3) Splitting pills for purposes of changing the dose 2086  
being given. 2087

(E) ~~A nursing home, residential care facility, or ICF/IID~~ 2088

~~that uses medication aides shall ensure that medication aides do~~ 2089  
~~not have access to any schedule II controlled substances within~~ 2090  
~~the home, facility, or ICF/IID for use by its~~ 2091  
~~residents.~~  
medication aide may administer insulin to a resident by 2092  
injection, but only if both of the following are satisfied: 2093

(1) The medication aide satisfies training and competency 2094  
requirements established by the aide's employer. 2095

(2) The insulin is injected using an insulin pen device 2096  
that contains a dosage indicator. 2097

**Sec. 4723.68.** ~~(A)~~ A registered nurse, or licensed 2098  
practical nurse acting at the direction of a registered nurse, 2099  
who ~~delegates~~ supervises medication administration ~~to~~ by a 2100  
medication aide who holds a current, valid medication aide 2101  
certificate issued under this chapter is not liable in damages 2102  
to any person or government entity in a civil action for injury, 2103  
death, or loss to person or property that allegedly arises from 2104  
an action or omission of the medication aide in performing the 2105  
medication administration, if the ~~delegating~~ supervising nurse 2106  
~~delegates~~ supervises the medication administration in accordance 2107  
with ~~this chapter and the rules adopted under this~~ 2108  
~~chapter~~ standards applicable to a nurse's supervision of health 2109  
care provided by others. 2110

~~(B) A person employed by a nursing home, residential care~~ 2111  
~~facility, or ICF/IID that uses medication aides pursuant to~~ 2112  
~~section 4723.64 of the Revised Code who reports in good faith a~~ 2113  
~~medication error at the nursing home, residential care facility,~~ 2114  
~~or ICF/IID is not subject to disciplinary action by the board of~~ 2115  
~~nursing or any other government entity regulating that person's~~ 2116  
~~professional practice and is not liable in damages to any person~~ 2117  
~~or government entity in a civil action for injury, death, or~~ 2118

~~loss to person or property that allegedly results from reporting  
the medication error.~~ 2119  
2120

**Sec. 4723.69.** ~~(A)~~ The board of nursing ~~shall~~ may adopt 2121  
rules to implement sections 4723.61 to 4723.68 of the Revised 2122  
Code. All rules adopted under this section shall be adopted in 2123  
accordance with Chapter 119. of the Revised Code. 2124

~~(B) The rules adopted under this section shall establish  
or specify all of the following:~~ 2125  
2126

~~(1) Fees, in an amount sufficient to cover the costs the  
board incurs in implementing sections 4723.61 to 4723.68 of the  
Revised Code, for certification as a medication aide and  
approval of a medication aide training program;~~ 2127  
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~~(2) Requirements to obtain a medication aide certificate  
that are not otherwise specified in section 4723.651 of the  
Revised Code;~~ 2131  
2132  
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~~(3) Procedures for renewal of medication aide  
certificates;~~ 2134  
2135

~~(4) The extent to which the board determines that the  
reasons for taking disciplinary actions under section 4723.28 of  
the Revised Code are applicable reasons for taking disciplinary  
actions under section 4723.652 of the Revised Code against an  
applicant for or holder of a medication aide certificate;~~ 2136  
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~~(5) Standards for medication aide training programs,  
including the examination to be administered by the training  
program to test an individual's ability to administer  
prescription medications safely;~~ 2141  
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~~(6) Standards for approval of continuing education  
programs and courses for medication aides;~~ 2145  
2146

<del>(7) Reasons for denying, revoking, or suspending approval of a medication aide training program;</del>	2147
	2148
<del>(8) Other standards and procedures the board considers necessary to implement sections 4723.61 to 4723.68 of the Revised Code.</del>	2149
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	2151
<b>Sec. 4729.41.</b> (A) (1) A pharmacist licensed under this	2152
chapter who meets the requirements of division (B) of this	2153
section, <del>and a pharmacy intern licensed under this chapter who</del>	2154
meets the requirements of division (B) of this section and is	2155
working under the direct supervision of a pharmacist who meets	2156
the requirements of that division, <u>and a certified pharmacy</u>	2157
<u>technician or a registered pharmacy technician who meets the</u>	2158
<u>requirements of division (B) of this section and is working</u>	2159
<u>under the direct supervision of a pharmacist who meets the</u>	2160
<u>requirements of that division, may do any of the following:</u>	2161
<del>(a) In the case of <u>administer to</u> an individual who is</del>	2162
<del>seven <u>five</u> years of age or older but not more than thirteen</del>	2163
<del>years of age, <u>administer to the individual an immunization for</u></del>	2164
<del>any of the following:</del>	2165
<del>(i) Influenza;</del>	2166
<del>(ii) COVID-19;</del>	2167
<del>(iii) Any other disease, but only pursuant to a</del>	2168
<del>prescription.</del>	2169
<del>(b) In the case of an individual who is thirteen years of</del>	2170
<del>age or older, <u>administer to the individual an immunization for</u></del>	2171
any disease, including an immunization for influenza or COVID-	2172
19.	2173
(2) As part of engaging in the administration of	2174

immunizations or supervising a pharmacy intern's, certified 2175  
pharmacy technician's, or registered pharmacy technician's 2176  
administration of immunizations, a pharmacist may administer 2177  
epinephrine or diphenhydramine, or both, to individuals in 2178  
emergency situations resulting from adverse reactions to the 2179  
immunizations administered by the pharmacist ~~or,~~ pharmacy 2180  
intern, certified pharmacy technician, or registered pharmacy 2181  
technician. 2182

(B) For a pharmacist ~~or,~~ pharmacy intern, certified 2183  
pharmacy technician, or registered pharmacy technician to be 2184  
authorized to engage in the administration of immunizations, the 2185  
pharmacist ~~or,~~ pharmacy intern, certified pharmacy technician, 2186  
or registered pharmacy technician shall do all of the following: 2187

(1) Successfully complete a course in the administration 2188  
of immunizations that meets the requirements established in 2189  
rules adopted under this section for such courses; 2190

(2) Receive and maintain certification to perform basic 2191  
life-support procedures by successfully completing a basic life- 2192  
support training course that is certified by the American red 2193  
cross or American heart association or approved by the state 2194  
board of pharmacy; 2195

(3) Practice in accordance with a protocol that meets the 2196  
requirements of division (C) of this section. 2197

(C) All of the following apply with respect to the 2198  
protocol required by division (B) (3) of this section: 2199

(1) The protocol shall be established by a physician 2200  
authorized under Chapter 4731. of the Revised Code to practice 2201  
medicine and surgery or osteopathic medicine and surgery. 2202

(2) The protocol shall specify a definitive set of 2203

treatment guidelines and the locations at which a pharmacist ~~or~~ 2204  
, pharmacy intern, certified pharmacy technician, or registered 2205  
pharmacy technician may engage in the administration of 2206  
immunizations. 2207

(3) The protocol shall satisfy the requirements 2208  
established in rules adopted under this section for protocols. 2209

(4) The protocol shall include provisions for 2210  
implementation of the following requirements: 2211

(a) The pharmacist ~~or~~, pharmacy intern, certified 2212  
pharmacy technician, or registered pharmacy technician who 2213  
administers an immunization shall observe the individual who 2214  
receives the immunization to determine whether the individual 2215  
has an adverse reaction to the immunization. The length of time 2216  
and location of the observation shall comply with the rules 2217  
adopted under this section establishing requirements for 2218  
protocols. The protocol shall specify procedures to be followed 2219  
by a pharmacist when administering epinephrine~~, or~~ 2220  
diphenhydramine, or both, to an individual who has an adverse 2221  
reaction to an immunization administered by the pharmacist or by 2222  
a pharmacy intern, certified pharmacy technician, or registered 2223  
pharmacy technician. 2224

(b) For each immunization administered to an individual by 2225  
a pharmacist ~~or~~, pharmacy intern, certified pharmacy 2226  
technician, or registered pharmacy technician, other than an 2227  
immunization for influenza administered to an individual 2228  
eighteen years of age or older, the pharmacist ~~or~~, pharmacy 2229  
intern, certified pharmacy technician, or registered pharmacy 2230  
technician shall notify the individual's primary care provider 2231  
or, if the individual has no primary care provider, the board of 2232  
health of the health district in which the individual resides or 2233

the authority having the duties of a board of health for that 2234  
district under section 3709.05 of the Revised Code. The notice 2235  
shall be given not later than thirty days after the immunization 2236  
is administered. 2237

(c) For each immunization administered by a pharmacist ~~or~~ 2238  
, pharmacy intern, certified pharmacy technician, or registered 2239  
pharmacy technician to an individual younger than eighteen years 2240  
of age, the pharmacist ~~or~~, a pharmacy intern, certified 2241  
pharmacy technician, or registered pharmacy technician shall 2242  
obtain permission from the individual's parent or legal guardian 2243  
in accordance with the procedures specified in rules adopted 2244  
under this section. 2245

(d) For each immunization administered by a pharmacist, 2246  
pharmacy intern, certified pharmacy technician, or registered 2247  
pharmacy technician to an individual who is younger than 2248  
eighteen years of age, the pharmacist, pharmacy intern, 2249  
certified pharmacy technician, or registered pharmacy technician 2250  
shall inform the individual's parent or legal guardian of the 2251  
importance of well child visits with a pediatrician or other 2252  
primary care provider and shall refer patients when appropriate. 2253

(D) (1) No pharmacist shall do either of the following: 2254

(a) Engage in the administration of immunizations unless 2255  
the requirements of division (B) of this section have been met; 2256

(b) Delegate to any person the pharmacist's authority to 2257  
engage in or supervise the administration of immunizations. 2258

(2) No pharmacy intern shall engage in the administration 2259  
of immunizations unless the requirements of division (B) of this 2260  
section have been met. 2261

(3) No certified pharmacy technician or registered 2262

pharmacy technician shall engage in the administration of 2263  
immunizations unless the requirements of division (B) of this 2264  
section have been met. 2265

(E) (1) The state board of pharmacy shall adopt rules to 2266  
implement this section. The rules shall be adopted in accordance 2267  
with Chapter 119. of the Revised Code and shall include the 2268  
following: 2269

(a) Requirements for courses in administration of 2270  
immunizations, including requirements that are consistent with 2271  
any standards established for such courses by the centers for 2272  
disease control and prevention; 2273

(b) Requirements for protocols to be followed by 2274  
pharmacists~~and,~~ pharmacy interns, certified pharmacy 2275  
technicians, and registered pharmacy technicians in engaging in 2276  
the administration of immunizations; 2277

(c) Procedures to be followed by pharmacists~~and,~~ 2278  
pharmacy interns, certified pharmacy technicians, and registered 2279  
pharmacy technicians in obtaining from the individual's parent 2280  
or legal guardian permission to administer immunizations to an 2281  
individual younger than eighteen years of age. 2282

(2) Prior to adopting rules regarding requirements for 2283  
protocols to be followed by pharmacists~~and,~~ pharmacy interns, 2284  
certified pharmacy technicians, and registered pharmacy 2285  
technicians in engaging in the administration of immunizations, 2286  
the state board of pharmacy shall consult with the state medical 2287  
board and the board of nursing. 2288

**Sec. 5124.15.** (A) Except as otherwise provided by section 2289  
5124.101 of the Revised Code, sections 5124.151 to 5124.154 of 2290  
the Revised Code, and ~~divisions~~ division (B) ~~and (C)~~ of this 2291



section, the total per medicaid day payment rate that the 2292  
department of developmental disabilities shall pay to an ICF/IID 2293  
provider for ICF/IID services the provider's ICF/IID provides 2294  
during a fiscal year shall equal the sum of all of the 2295  
following: 2296

(1) The per medicaid day capital component rate determined 2297  
for the ICF/IID under section 5124.17 of the Revised Code; 2298

(2) The per medicaid day direct care costs component rate 2299  
determined for the ICF/IID under section 5124.19 of the Revised 2300  
Code; 2301

(3) The per medicaid day indirect care costs component 2302  
rate determined for the ICF/IID under section 5124.21 of the 2303  
Revised Code; 2304

(4) The per medicaid day other protected costs component 2305  
rate determined for the ICF/IID under section 5124.23 of the 2306  
Revised Code; 2307

(5) The sum of the following: 2308

(a) The per medicaid day quality incentive payment 2309  
determined for the ICF/IID under section 5124.24 of the Revised 2310  
Code; 2311

(b) A direct support personnel payment equal to two and 2312  
four-hundredths per cent of the ICF/IID's desk-reviewed, actual, 2313  
allowable, per medicaid day direct care costs from the 2314  
applicable cost report year; 2315

(c) A professional workforce development payment equal to 2316  
thirteen and fifty-five hundredths for state fiscal year 2024 2317  
and twenty and eighty-one hundredths during fiscal year 2025 per 2318  
cent of the ICF/IID's desk-reviewed, actual, allowable, per 2319

medicaid day direct care costs from the applicable cost report 2320  
year. 2321

~~(B) The total per medicaid day payment rate for an ICF/IID 2322  
that is in peer group 5 shall not exceed the average total per- 2323  
medicaid day payment rate in effect on July 1, 2013, for- 2324  
developmental centers.- 2325~~

~~(C) The department shall adjust the total per medicaid day 2326  
payment rate otherwise determined for an ICF/IID under this 2327  
section as directed by the general assembly through the 2328  
enactment of law governing medicaid payments to ICF/IID 2329  
providers. 2330~~

~~(D) (1) (C) (1) In addition to paying an ICF/IID provider 2331  
the total per medicaid day payment rate determined for the 2332  
provider's ICF/IID under divisions (A) and (B) ~~and (C)~~ of this 2333  
section for a fiscal year, the department may do either or both 2334  
of the following: 2335~~

(a) In accordance with section 5124.25 of the Revised 2336  
Code, pay the provider a rate add-on for ventilator-dependent 2337  
outlier ICF/IID services if the rate add-on is to be paid under 2338  
that section and the department approves the provider's 2339  
application for the rate add-on; 2340

(b) In accordance with section 5124.26 of the Revised 2341  
Code, pay the provider for outlier ICF/IID services the ICF/IID 2342  
provides to residents identified as needing intensive behavioral 2343  
health support services if the rate add-on is to be paid under 2344  
that section and the department approves the provider's 2345  
application for the rate add-on. 2346

(2) The rate add-ons are not to be part of the ICF/IID's 2347  
total per medicaid day payment rate. 2348

**Sec. 5124.151.** (A) The total per medicaid day payment rate 2349  
determined under section 5124.15 of the Revised Code shall not 2350  
be the initial rate for ICF/IID services provided by a new 2351  
ICF/IID. Instead, the initial total per medicaid day payment 2352  
rate for ICF/IID services provided by a new ICF/IID shall be 2353  
determined in accordance with this section. 2354

(B) The initial total per medicaid day payment rate for 2355  
ICF/IID services provided by a new ICF/IID, ~~other than an~~ 2356  
~~ICF/IID in peer group 5,~~ shall be determined in the following 2357  
manner: 2358

(1) The initial per medicaid day capital component rate 2359  
shall be the median per medicaid day capital component rate for 2360  
the ICF/IID's peer group for the fiscal year. 2361

(2) The initial per medicaid day direct care costs 2362  
component rate shall be determined as follows: 2363

(a) If there are no cost or resident assessment data for 2364  
the new ICF/IID as necessary to determine a rate under section 2365  
5124.19 of the Revised Code, the rate shall be determined as 2366  
follows: 2367

(i) Determine the median cost per case-mix unit under 2368  
division (B) of section 5124.19 of the Revised Code for the new 2369  
ICF/IID's peer group for the applicable cost report year; 2370

(ii) Multiply the amount determined under division (B) (2) 2371  
(a) (i) of this section by the median annual average case-mix 2372  
score for the new ICF/IID's peer group for that period; 2373

(iii) Adjust the product determined under division (B) (2) 2374  
(a) (ii) of this section by the rate of inflation estimated under 2375  
division (D) of section 5124.19 of the Revised Code. 2376

(b) If the new ICF/IID is a replacement ICF/IID and the 2377  
ICF/IID or ICFs/IID that are being replaced are in operation 2378  
immediately before the new ICF/IID opens, the rate shall be the 2379  
same as the rate for the replaced ICF/IID or ICFs/IID, 2380  
proportionate to the number of ICF/IID beds in each replaced 2381  
ICF/IID. 2382

(c) If the new ICF/IID is a replacement ICF/IID and the 2383  
ICF/IID or ICFs/IID that are being replaced are not in operation 2384  
immediately before the new ICF/IID opens, the rate shall be 2385  
determined under division (B) (2) (a) of this section. 2386

(3) The initial per medicaid day indirect care costs 2387  
component rate shall be the maximum rate for the new ICF/IID's 2388  
peer group as determined for the fiscal year in accordance with 2389  
division (C) of section 5124.21 of the Revised Code. 2390

(4) The initial per medicaid day other protected costs 2391  
component rate shall be one hundred fifteen per cent of the 2392  
median rate for ICFs/IID determined for the fiscal year under 2393  
section 5124.23 of the Revised Code. 2394

~~(C) The initial total medicaid day payment rate for 2395  
ICF/IID services provided by a new ICF/IID in peer group 5 shall 2396  
be determined in the following manner: 2397~~

~~(1) The initial per medicaid day capital component rate 2398  
shall be \$29.61. 2399~~

~~(2) The initial per medicaid day direct care costs 2400  
component rate shall be \$264.89. 2401~~

~~(3) The initial per medicaid day indirect care costs 2402  
component rate shall be \$59.85. 2403~~

~~(4) The initial per medicaid day other protected costs 2404~~

~~component rate shall be \$25.99.~~ 2405

~~(D)(1)~~ (C)(1) Except as provided in division ~~(D)(2)~~ (C)(2) 2406  
of this section, the department of developmental disabilities 2407  
shall adjust a new ICF/IID's initial total per medicaid day 2408  
payment rate determined under this section effective the first 2409  
day of July, to reflect new rate determinations for all ICFs/IID 2410  
under this chapter. 2411

(2) If the department accepts, under division (A) of 2412  
section 5124.101 of the Revised Code, a cost report filed by the 2413  
provider of a new ICF/IID, the department shall adjust the 2414  
ICF/IID's initial total per medicaid day payment rate in 2415  
accordance with divisions (E) and (F) of that section rather 2416  
than division ~~(D)(1)~~ (C)(1) of this section. 2417

**Sec. 5165.01.** As used in this chapter: 2418

(A) "Affiliated operator" means an operator affiliated 2419  
with either of the following: 2420

(1) The exiting operator for whom the affiliated operator 2421  
is to assume liability for the entire amount of the exiting 2422  
operator's debt under the medicaid program or the portion of the 2423  
debt that represents the franchise permit fee the exiting 2424  
operator owes; 2425

(2) The entering operator involved in the change of 2426  
operator with the exiting operator specified in division (A)(1) 2427  
of this section. 2428

(B) "Allowable costs" are a nursing facility's costs that 2429  
the department of medicaid determines are reasonable. Fines paid 2430  
under sections 5165.60 to 5165.89 and section 5165.99 of the 2431  
Revised Code are not allowable costs. 2432

(C) "Ancillary and support costs" means all reasonable 2433  
costs incurred by a nursing facility other than direct care 2434  
costs, tax costs, or capital costs. "Ancillary and support 2435  
costs" includes, but is not limited to, costs of activities, 2436  
social services, pharmacy consultants, habilitation supervisors, 2437  
qualified intellectual disability professionals, program 2438  
directors, medical and habilitation records, program supplies, 2439  
incontinence supplies, food, enterals, dietary supplies and 2440  
personnel, laundry, housekeeping, security, administration, 2441  
medical equipment, utilities, liability insurance, bookkeeping, 2442  
purchasing department, human resources, communications, travel, 2443  
dues, license fees, subscriptions, home office costs not 2444  
otherwise allocated, legal services, accounting services, minor 2445  
equipment, maintenance and repairs, help-wanted advertising, 2446  
informational advertising, start-up costs, organizational 2447  
expenses, other interest, property insurance, employee training 2448  
and staff development, employee benefits, payroll taxes, and 2449  
workers' compensation premiums or costs for self-insurance 2450  
claims and related costs as specified in rules adopted under 2451  
section 5165.02 of the Revised Code, for personnel listed in 2452  
this division. "Ancillary and support costs" also means the cost 2453  
of equipment, including vehicles, acquired by operating lease 2454  
executed before December 1, 1992, if the costs are reported as 2455  
administrative and general costs on the nursing facility's cost 2456  
report for the cost reporting period ending December 31, 1992. 2457

(D) "Applicable calendar year" means the calendar year 2458  
immediately preceding the first of the state fiscal years for 2459  
which a rebasing is conducted. 2460

(E) For purposes of calculating a critical access nursing 2461  
facility's occupancy rate and utilization rate under this 2462  
chapter, "as of the last day of the calendar year" refers to the 2463

occupancy and utilization rates during the calendar year 2464  
identified in the cost report filed under section 5165.10 of the 2465  
Revised Code. 2466

(F) (1) "Capital costs" means the actual expense incurred 2467  
by a nursing facility for all of the following: 2468

(a) Depreciation and interest on any capital assets that 2469  
cost five hundred dollars or more per item, including the 2470  
following: 2471

(i) Buildings; 2472

(ii) Building improvements; 2473

(iii) Except as provided in division (D) of this section, 2474  
equipment; 2475

(iv) Transportation equipment. 2476

(b) Amortization and interest on land improvements and 2477  
leasehold improvements; 2478

(c) Amortization of financing costs; 2479

(d) Lease and rent of land, buildings, and equipment. 2480

(2) The costs of capital assets of less than five hundred 2481  
dollars per item may be considered capital costs in accordance 2482  
with a provider's practice. 2483

(G) "Capital lease" and "operating lease" shall be 2484  
construed in accordance with generally accepted accounting 2485  
principles. 2486

(H) "Case-mix score" means a measure determined under 2487  
section 5165.192 of the Revised Code of the relative direct-care 2488  
resources needed to provide care and habilitation to a nursing 2489  
facility resident. 2490

(I) <del>"Change in control" means either of the following:</del>	2491
<del>(1) Any pledge, assignment, or hypothecation of or lien or other encumbrance on any of the legal or beneficial equity interests in the applicable person;</del>	2492
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<del>(2) A change of fifty per cent or more in the legal or beneficial ownership or control of the outstanding voting equity interests of the applicable person necessary at all times to elect a majority of the board of directors or similar governing body and to direct the management policies and decisions.</del>	2495
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<del>(J) "Change of operator" includes circumstances in which an entering operator becomes the operator of a nursing facility in the place of the exiting operator or there is a change in owner of a nursing facility.</del>	2500
	2501
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	2503
(1) Actions that constitute a change of operator include the following:	2504
	2505
(a) A change in an exiting operator's <del>or owner's</del> form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;	2506
	2507
	2508
(b) A change <del>of</del> <u>in operational control in of the exiting operator or owner</u> <u>nursing facility</u> , regardless of whether ownership of any or all of the real property or personal property associated with the nursing facility is also transferred;	2509
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(c) A lease of the nursing facility to the entering operator or <del>owner or the exiting operator's or owner's</del> termination of the exiting operator's <del>or owner's</del> lease;	2514
	2515
	2516
(d) If the exiting operator <del>or owner</del> is a partnership, dissolution of the partnership, a merger of the partnership into	2517
	2518



another person that is the survivor of the merger, or a consolidation of the partnership and at least one other person to form a new person;

(e) If the exiting operator ~~or owner~~ is a limited liability company, dissolution of the limited liability company, a merger of the limited liability company into another person that is the survivor of the merger, or a consolidation of the limited liability company and at least one other person to form a new person.

(f) If the operator ~~or owner~~ is a corporation, dissolution of the corporation, a merger of the corporation into another person that is the survivor of the merger, or a consolidation of the corporation and at least one other person to form a new person;

(g) A contract for a person to assume operational control of the operations and cash flow of a nursing facility as the operator's or owner's agent;

(h) ~~A change in control of the owner of the real property associated with the nursing facility if, within one year of the change of control, there is a material increase in lease payments or other financial obligations of the operator to the owner of fifty per cent or more in the ownership of the licensed operator that results in a change of operational control;~~

(i) Any pledge, assignment, or hypothecation of or lien or other encumbrance on any of the legal or beneficial equity interests in the operator or a person with operational control.

(2) The following, ~~alone,~~ do not constitute a change of operator:

(a) ~~an employer~~ Actions necessary to create an employee

stock ownership plan ~~created~~ under section 401(a) of the 2548  
"Internal Revenue Code," 26 U.S.C. 401(a); 2549

~~(b) Except as provided in division (J)(1) of this section,~~ 2550  
~~a~~ A change of ownership of real property or personal property 2551  
associated with a nursing facility; 2552

~~(c) If the operator or owner~~ is a corporation that has 2553  
securities publicly traded in a marketplace, a change of one or 2554  
more members of the corporation's governing body or transfer of 2555  
ownership of one or more shares of the corporation's stock, if 2556  
the same corporation continues to be the operator ~~or owner~~; 2557

~~(d) An initial public offering for which the securities~~ 2558  
~~and exchange commission has declared the registration statement~~ 2559  
~~effective, and the newly created public company remains the~~ 2560  
~~operator or owner.~~ 2561

~~(K)~~ (J) "Cost center" means the following: 2562

- (1) Ancillary and support costs; 2563
- (2) Capital costs; 2564
- (3) Direct care costs; 2565
- (4) Tax costs. 2566

~~(L)~~ (K) "Custom wheelchair" means a wheelchair to which 2567  
both of the following apply: 2568

(1) It has been measured, fitted, or adapted in 2569  
consideration of either of the following: 2570

(a) The body size or disability of the individual who is 2571  
to use the wheelchair; 2572

(b) The individual's period of need for, or intended use 2573  
of, the wheelchair. 2574

(2) It has customized features, modifications, or 2575  
components, such as adaptive seating and positioning systems, 2576  
that the supplier who assembled the wheelchair, or the 2577  
manufacturer from which the wheelchair was ordered, added or 2578  
made in accordance with the instructions of the physician of the 2579  
individual who is to use the wheelchair. 2580

~~(M) (1)~~ (L) (1) "Date of licensure" means the following: 2581

(a) In the case of a nursing facility that was required by 2582  
law to be licensed as a nursing home under Chapter 3721. of the 2583  
Revised Code when it originally began to be operated as a 2584  
nursing home, the date the nursing facility was originally so 2585  
licensed; 2586

(b) In the case of a nursing facility that was not 2587  
required by law to be licensed as a nursing home when it 2588  
originally began to be operated as a nursing home, the date it 2589  
first began to be operated as a nursing home, regardless of the 2590  
date the nursing facility was first licensed as a nursing home. 2591

(2) If, after a nursing facility's original date of 2592  
licensure, more nursing home beds are added to the nursing 2593  
facility, the nursing facility has a different date of licensure 2594  
for the additional beds. This does not apply, however, to 2595  
additional beds when both of the following apply: 2596

(a) The additional beds are located in a part of the 2597  
nursing facility that was constructed at the same time as the 2598  
continuing beds already located in that part of the nursing 2599  
facility; 2600

(b) The part of the nursing facility in which the 2601  
additional beds are located was constructed as part of the 2602  
nursing facility at a time when the nursing facility was not 2603

required by law to be licensed as a nursing home. 2604

(3) The definition of "date of licensure" in this section 2605  
applies in determinations of nursing facilities' medicaid 2606  
payment rates but does not apply in determinations of nursing 2607  
facilities' franchise permit fees. 2608

~~(N)~~(M) "Desk-reviewed" means that a nursing facility's 2609  
costs as reported on a cost report submitted under section 2610  
5165.10 of the Revised Code have been subjected to a desk review 2611  
under section 5165.108 of the Revised Code and preliminarily 2612  
determined to be allowable costs. 2613

~~(O)~~(N) "Direct care costs" means all of the following 2614  
costs incurred by a nursing facility: 2615

(1) Costs for registered nurses, licensed practical 2616  
nurses, and nurse aides employed by the nursing facility; 2617

(2) Costs for direct care staff, administrative nursing 2618  
staff, medical directors, respiratory therapists, and except as 2619  
provided in division ~~(O)~~~~(8)~~(N) (8) of this section, other 2620  
persons holding degrees qualifying them to provide therapy; 2621

(3) Costs of purchased nursing services; 2622

(4) Costs of quality assurance; 2623

(5) Costs of training and staff development, employee 2624  
benefits, payroll taxes, and workers' compensation premiums or 2625  
costs for self-insurance claims and related costs as specified 2626  
in rules adopted under section 5165.02 of the Revised Code, for 2627  
personnel listed in divisions ~~(O)~~~~(1)~~(N) (1), (2), (4), and (8) of 2628  
this section; 2629

(6) Costs of consulting and management fees related to 2630  
direct care; 2631

(7) Allocated direct care home office costs;	2632
(8) Costs of habilitation staff (other than habilitation supervisors), medical supplies, emergency oxygen, over-the-counter pharmacy products, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, and universal precautions supplies;	2633 2634 2635 2636 2637 2638
(9) Costs of wheelchairs other than the following:	2639
(a) Custom wheelchairs;	2640
(b) Repairs to and replacements of custom wheelchairs and parts that are made in accordance with the instructions of the physician of the individual who uses the custom wheelchair.	2641 2642 2643
(10) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5165.02 of the Revised Code.	2644 2645 2646
<del>(P)</del> <u>(O)</u> "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.	2647 2648
<del>(Q)</del> <u>(P)</u> "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility.	2649 2650 2651
<del>(R)</del> <u>(Q)</u> "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility resides in the nursing facility.	2652 2653 2654
<del>(S)</del> <u>(R)</u> "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the nursing facility.	2655 2656 2657
<del>(T)</del> <u>(S)</u> "Effective date of a voluntary withdrawal of	2658

participation" means the day the nursing facility ceases to 2659  
accept new medicaid residents other than the individuals who 2660  
reside in the nursing facility on the day before the effective 2661  
date of the voluntary withdrawal of participation. 2662

~~(U)~~(T) "Entering operator" means the person or government 2663  
entity that will become the operator of a nursing facility when 2664  
a change of operator occurs or following an involuntary 2665  
termination. 2666

~~(V)~~(U) "Exiting operator" means any of the following: 2667

(1) An operator that will cease to be the operator of a 2668  
nursing facility on the effective date of a change of operator; 2669

(2) An operator that will cease to be the operator of a 2670  
nursing facility on the effective date of a facility closure; 2671

(3) An operator of a nursing facility that is undergoing 2672  
or has undergone a voluntary withdrawal of participation; 2673

(4) An operator of a nursing facility that is undergoing 2674  
or has undergone an involuntary termination. 2675

~~(W) (1)~~(V) (1) Subject to divisions ~~(W) (2)~~(V) (2) and (3) 2676  
of this section, "facility closure" means either of the 2677  
following: 2678

(a) Discontinuance of the use of the building, or part of 2679  
the building, that houses the facility as a nursing facility 2680  
that results in the relocation of all of the nursing facility's 2681  
residents; 2682

(b) Conversion of the building, or part of the building, 2683  
that houses a nursing facility to a different use with any 2684  
necessary license or other approval needed for that use being 2685  
obtained and one or more of the nursing facility's residents 2686

remaining in the building, or part of the building, to receive 2687  
services under the new use. 2688

(2) A facility closure occurs regardless of any of the 2689  
following: 2690

(a) The operator completely or partially replacing the 2691  
nursing facility by constructing a new nursing facility or 2692  
transferring the nursing facility's license to another nursing 2693  
facility; 2694

(b) The nursing facility's residents relocating to another 2695  
of the operator's nursing facilities; 2696

(c) Any action the department of health takes regarding 2697  
the nursing facility's medicaid certification that may result in 2698  
the transfer of part of the nursing facility's survey findings 2699  
to another of the operator's nursing facilities; 2700

(d) Any action the department of health takes regarding 2701  
the nursing facility's license under Chapter 3721. of the 2702  
Revised Code. 2703

(3) A facility closure does not occur if all of the 2704  
nursing facility's residents are relocated due to an emergency 2705  
evacuation and one or more of the residents return to a 2706  
medicaid-certified bed in the nursing facility not later than 2707  
thirty days after the evacuation occurs. 2708

~~(X)~~ (W) "Franchise permit fee" means the fee imposed by 2709  
sections 5168.40 to 5168.56 of the Revised Code. 2710

~~(Y)~~ (X) "Inpatient days" means both of the following: 2711

(1) All days during which a resident, regardless of 2712  
payment source, occupies a licensed bed in a nursing facility; 2713

(2) Fifty per cent of the days for which payment is made 2714  
under section 5165.34 of the Revised Code. 2715

~~(Z)~~ (Y) "Involuntary termination" means the department of 2716  
medicaid's termination of the operator's provider agreement for 2717  
the nursing facility when the termination is not taken at the 2718  
operator's request. 2719

~~(AA)~~ (Z) "Low case-mix resident" means a medicaid 2720  
recipient residing in a nursing facility who, for purposes of 2721  
calculating the nursing facility's medicaid payment rate for 2722  
direct care costs, is placed in either of the two lowest case- 2723  
mix groups, excluding any case-mix group that is a default group 2724  
used for residents with incomplete assessment data. 2725

~~(BB)~~ (AA) "Maintenance and repair expenses" means a 2726  
nursing facility's expenditures that are necessary and proper to 2727  
maintain an asset in a normally efficient working condition and 2728  
that do not extend the useful life of the asset two years or 2729  
more. "Maintenance and repair expenses" includes but is not 2730  
limited to the costs of ordinary repairs such as painting and 2731  
wallpapering. 2732

~~(CC)~~ (BB) "Medicaid-certified capacity" means the number 2733  
of a nursing facility's beds that are certified for 2734  
participation in medicaid as nursing facility beds. 2735

~~(DD)~~ (CC) "Medicaid days" means both of the following: 2736

(1) All days during which a resident who is a medicaid 2737  
recipient eligible for nursing facility services occupies a bed 2738  
in a nursing facility that is included in the nursing facility's 2739  
medicaid-certified capacity; 2740

(2) Fifty per cent of the days for which payment is made 2741  
under section 5165.34 of the Revised Code. 2742



~~(EE)~~ ~~(1)~~ ~~(DD)~~ ~~(1)~~ "New nursing facility" means a nursing facility for which the provider obtains an initial provider agreement following medicaid certification of the nursing facility by the director of health, including such a nursing facility that replaces one or more nursing facilities for which a provider previously held a provider agreement.

(2) "New nursing facility" does not mean a nursing facility for which the entering operator seeks a provider agreement pursuant to section 5165.511 or 5165.512 or (pursuant to section 5165.515) section 5165.07 of the Revised Code.

~~(FF)~~ ~~(EE)~~ "Nursing facility" has the same meaning as in the "Social Security Act," section 1919(a), 42 U.S.C. 1396r(a).

~~(GG)~~ ~~(FF)~~ "Nursing facility services" has the same meaning as in the "Social Security Act," section 1905(f), 42 U.S.C. 1396d(f).

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

~~(II)~~ ~~(HH)~~ "Occupancy rate" means the percentage of licensed beds that, regardless of payer source, are either of the following:

(1) Reserved for use under section 5165.34 of the Revised Code;

(2) Actually being used.

(II) "Operational control" means having the ability to direct the overall operations and cash flow of a nursing facility. "Operational control" may be exercised by one person or multiple persons acting together or by a government entity, and may exist by means of any of the following:

- (1) The person, persons, or government entity directly operating the nursing facility; 2771  
2772
- (2) The person, persons, or government entity directly or indirectly owning fifty per cent or more of the operator; 2773  
2774
- (3) An agreement or other arrangement granting the person, persons, or government entity operational control. 2775  
2776
- (JJ) "Operator" means ~~the~~ a person or government entity responsible for the daily operating and management decisions for operational control of a nursing facility and that holds both of the following: 2777  
2778  
2779  
2780
- (1) The license to operate the nursing facility issued under section 3721.02 of the Revised Code, if a license is required by section 3721.05 of the Revised Code; 2781  
2782  
2783
- (2) The medicaid provider agreement issued under section 5165.07 of the Revised Code, if applicable. 2784  
2785
- (KK) (1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility: 2786  
2787  
2788  
2789
- (a) The land on which the nursing facility is located; 2790
- (b) The structure in which the nursing facility is located; 2791  
2792
- (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the nursing facility is located; 2793  
2794  
2795
- (d) Any lease or sublease of the land or structure on or in which the nursing facility is located. 2796  
2797

(2) "Owner" does not mean a holder of a debenture or bond 2798  
related to the nursing facility and purchased at public issue or 2799  
a regulated lender that has made a loan related to the nursing 2800  
facility unless the holder or lender operates the nursing 2801  
facility directly or through a subsidiary. 2802

(LL) "Per diem" means a nursing facility's actual, 2803  
allowable costs in a given cost center in a cost reporting 2804  
period, divided by the nursing facility's inpatient days for 2805  
that cost reporting period. 2806

(MM) "Person" has the same meaning as in section 1.59 of 2807  
the Revised Code. 2808

(NN) "Private room" means a nursing facility bedroom that 2809  
meets all of the following criteria: 2810

(1) It has four permanent, floor-to-ceiling walls and a 2811  
full door. 2812

(2) It contains one licensed or certified bed that is 2813  
occupied by one individual. 2814

(3) It has access to a hallway without traversing another 2815  
bedroom. 2816

(4) It has access to a toilet and sink shared by not more 2817  
than one other resident without traversing another bedroom. 2818

(5) It meets all applicable licensure or other standards 2819  
pertaining to furniture, fixtures, and temperature control. 2820

(OO) "Provider" means an operator with a provider 2821  
agreement. 2822

(PP) "Provider agreement" means a provider agreement, as 2823  
defined in section 5164.01 of the Revised Code, that is between 2824

the department of medicaid and the operator of a nursing 2825  
facility for the provision of nursing facility services under 2826  
the medicaid program. 2827

(QQ) "Purchased nursing services" means services that are 2828  
provided in a nursing facility by registered nurses, licensed 2829  
practical nurses, or nurse aides who are not employees of the 2830  
nursing facility. 2831

(RR) "Reasonable" means that a cost is an actual cost that 2832  
is appropriate and helpful to develop and maintain the operation 2833  
of patient care facilities and activities, including normal 2834  
standby costs, and that does not exceed what a prudent buyer 2835  
pays for a given item or services. Reasonable costs may vary 2836  
from provider to provider and from time to time for the same 2837  
provider. 2838

(SS) "Rebasing" means a redetermination of each of the 2839  
following using information from cost reports for an applicable 2840  
calendar year that is later than the applicable calendar year 2841  
used for the previous rebasing: 2842

(1) Each peer group's rate for ancillary and support costs 2843  
as determined pursuant to division (C) of section 5165.16 of the 2844  
Revised Code; 2845

(2) Each peer group's rate for capital costs as determined 2846  
pursuant to division (C) of section 5165.17 of the Revised Code; 2847

(3) Each peer group's cost per case-mix unit as determined 2848  
pursuant to division (C) of section 5165.19 of the Revised Code; 2849

(4) Each nursing facility's rate for tax costs as 2850  
determined pursuant to section 5165.21 of the Revised Code. 2851

(TT) "Related party" means an individual or organization 2852

that, to a significant extent, has common ownership with, is 2853  
associated or affiliated with, has control of, or is controlled 2854  
by, the provider. 2855

(1) An individual who is a relative of an owner is a 2856  
related party. 2857

(2) Common ownership exists when an individual or 2858  
individuals possess significant ownership or equity in both the 2859  
provider and the other organization. Significant ownership or 2860  
equity exists when an individual or individuals possess five per 2861  
cent ownership or equity in both the provider and a supplier. 2862  
Significant ownership or equity is presumed to exist when an 2863  
individual or individuals possess ten per cent ownership or 2864  
equity in both the provider and another organization from which 2865  
the provider purchases or leases real property. 2866

(3) Control exists when an individual or organization has 2867  
the power, directly or indirectly, to significantly influence or 2868  
direct the actions or policies of an organization. 2869

(4) An individual or organization that supplies goods or 2870  
services to a provider shall not be considered a related party 2871  
if all of the following conditions are met: 2872

(a) The supplier is a separate bona fide organization. 2873

(b) A substantial part of the supplier's business activity 2874  
of the type carried on with the provider is transacted with 2875  
others than the provider and there is an open, competitive 2876  
market for the types of goods or services the supplier 2877  
furnishes. 2878

(c) The types of goods or services are commonly obtained 2879  
by other nursing facilities from outside organizations and are 2880  
not a basic element of patient care ordinarily furnished 2881

directly to patients by nursing facilities.	2882
(d) The charge to the provider is in line with the charge	2883
for the goods or services in the open market and no more than	2884
the charge made under comparable circumstances to others by the	2885
supplier.	2886
(UU) "Relative of owner" means an individual who is	2887
related to an owner of a nursing facility by one of the	2888
following relationships:	2889
(1) Spouse;	2890
(2) Natural parent, child, or sibling;	2891
(3) Adopted parent, child, or sibling;	2892
(4) Stepparent, stepchild, stepbrother, or stepsister;	2893
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-	2894
law, brother-in-law, or sister-in-law;	2895
(6) Grandparent or grandchild;	2896
(7) Foster caregiver, foster child, foster brother, or	2897
foster sister.	2898
(VV) "Residents' rights advocate" has the same meaning as	2899
in section 3721.10 of the Revised Code.	2900
(WW) "Skilled nursing facility" has the same meaning as in	2901
the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-	2902
3(a).	2903
(XX) "State fiscal year" means the fiscal year of this	2904
state, as specified in section 9.34 of the Revised Code.	2905
(YY) "Sponsor" has the same meaning as in section 3721.10	2906
of the Revised Code.	2907

(ZZ) "Surrender" has the same meaning as in section 2908  
5168.40 of the Revised Code. 2909

(AAA) "Tax costs" means the costs of taxes imposed under 2910  
Chapter 5751. of the Revised Code, real estate taxes, personal 2911  
property taxes, and corporate franchise taxes. 2912

(BBB) "Title XIX" means Title XIX of the "Social Security 2913  
Act," 42 U.S.C. 1396 et seq. 2914

(CCC) "Title XVIII" means Title XVIII of the "Social 2915  
Security Act," 42 U.S.C. 1395 et seq. 2916

(DDD) "Voluntary withdrawal of participation" means an 2917  
operator's voluntary election to terminate the participation of 2918  
a nursing facility in the medicaid program but to continue to 2919  
provide service of the type provided by a nursing facility. 2920

**Sec. 5165.06.** Subject to section 5165.072 of the Revised 2921  
Code, an operator is eligible to enter into and retain a 2922  
provider agreement for a nursing facility if all of the 2923  
following apply: 2924

(A) The nursing facility is certified by the director of 2925  
health for participation in medicaid; 2926

(B) The nursing facility is licensed by the director of 2927  
health as a nursing home if so required by law and the operator 2928  
is the licensed operator of the nursing home; 2929

(C) The operator and nursing facility comply with all 2930  
applicable state and federal laws and rules. 2931

**Sec. 5165.26.** (A) As used in this section: 2932

(1) "Base rate" means the portion of a nursing facility's 2933  
total per medicaid day payment rate determined under divisions 2934

(A) and (B) of section 5165.15 of the Revised Code.	2935
(2) "CMS" means the United States centers for medicare and medicaid services.	2936 2937
(3) "Long-stay resident" means an individual who has resided in a nursing facility for at least one hundred one days.	2938 2939
(4) "Nursing facilities for which a quality score was determined" includes nursing facilities that are determined to have a quality score of zero.	2940 2941 2942
(5) "SFF list" means the list of nursing facilities that the United States department of health and human services creates under the special focus facility program.	2943 2944 2945
(6) "Special focus facility program" means the program conducted by the United States secretary of health and human services pursuant to section 1919(f)(10) of the "Social Security Act," 42 U.S.C. 1396r(f)(10).	2946 2947 2948 2949
(B) Subject to divisions (D) and (E) and except as provided in division (F) of this section, the department of medicaid shall determine each nursing facility's per medicaid day quality incentive payment rate as follows:	2950 2951 2952 2953
(1) Determine the sum of the quality scores determined under division (C) of this section for all nursing facilities.	2954 2955
(2) Determine the average quality score by dividing the sum determined under division (B)(1) of this section by the number of nursing facilities for which a quality score was determined.	2956 2957 2958 2959
(3) Determine the sum of the total number of medicaid days for all of the calendar year preceding the fiscal year for which the rate is determined for all nursing facilities for which a	2960 2961 2962



quality score was determined.	2963
(4) Multiply the average quality score determined under	2964
division (B) (2) of this section by the sum determined under	2965
division (B) (3) of this section.	2966
(5) Determine the value per quality point by determining	2967
the quotient of the following:	2968
(a) The sum determined under division (E) (2) of this	2969
section.	2970
(b) The product determined under division (B) (4) of this	2971
section.	2972
(6) Multiply the value per quality point determined under	2973
division (B) (5) of this section by the nursing facility's	2974
quality score determined under division (C) of this section.	2975
(C) (1) Except as provided in divisions (C) (2) and (3) of	2976
this section, a nursing facility's quality score for a state	2977
fiscal year shall be the sum of the following:	2978
(a) The total number of points that CMS assigned to the	2979
nursing facility under CMS's nursing facility five-star quality	2980
rating system for the following quality metrics, or CMS's	2981
successor metrics as described below, based on the most recent	2982
four-quarter average data, or the average data for fewer	2983
quarters in the case of successor metrics, available in the	2984
database maintained by CMS and known as nursing home compare in	2985
the most recent month of the calendar year during which the	2986
fiscal year for which the rate is determined begins:	2987
(i) The percentage of the nursing facility's long-stay	2988
residents at high risk for pressure ulcers who had pressure	2989
ulcers;	2990

(ii) The percentage of the nursing facility's long-stay residents who had a urinary tract infection;	2991 2992
(iii) The percentage of the nursing facility's long-stay residents whose ability to move independently worsened;	2993 2994
(iv) The percentage of the nursing facility's long-stay residents who had a catheter inserted and left in their bladder.	2995 2996
If CMS ceases to publish any of the metrics specified in division (C)(1)(a) of this section, the department shall use the nursing facility quality metrics on the same topics that CMS subsequently publishes.	2997 2998 2999 3000
(b) Seven and five-tenths points for fiscal year 2024 and three points for fiscal year 2025 and subsequent fiscal years if the nursing facility's occupancy rate is greater than seventy-five per cent. For purposes of this division, the department shall utilize the facility's occupancy rate for licensed beds reported on its cost report for the calendar year preceding the fiscal year for which the rate is determined or, if the facility is not required to be licensed, the facility's occupancy rate for certified beds. If the facility surrenders licensed or certified beds before the first day of July of the calendar year in which the fiscal year begins, the department shall calculate a nursing facility's occupancy rate by dividing the inpatient days reported on the facility's cost report for the calendar year preceding the fiscal year for which the rate is determined by the product of the number of days in the calendar year and the facility's number of licensed, or if applicable, certified beds on the first day of July of the calendar year in which the fiscal year begins.	3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011 3012 3013 3014 3015 3016 3017 3018
(c) Beginning with state fiscal year 2025, the total	3019

number of points that CMS assigned to the nursing facility under 3020  
CMS's nursing facility five-star quality rating system for the 3021  
following quality metrics, or successor metrics designated by 3022  
CMS, based on the most recent four-quarter average data 3023  
available in the database maintained by CMS and known as nursing 3024  
home compare in the most recent month of the calendar year 3025  
during which the fiscal year for which the rate is determined 3026  
begins: 3027

(i) The percentage of the nursing facility's long-stay 3028  
residents whose need for help with daily activities has 3029  
increased; 3030

(ii) The percentage of the nursing facility's long-stay 3031  
residents experiencing one or more falls with major injury; 3032

(iii) The percentage of the nursing facility's long-stay 3033  
residents who were administered an antipsychotic medication; 3034

(iv) Adjusted total nurse staffing hours per resident per 3035  
day using quintiles instead of deciles by using the points 3036  
assigned to the higher of the two deciles that constitute the 3037  
quintile. 3038

If CMS ceases to publish any of the metrics specified in 3039  
division (C) (1) (c) of this section, the department shall use the 3040  
nursing facility quality metrics on the same topics CMS 3041  
subsequently publishes. 3042

(2) In determining a nursing facility's quality score for 3043  
a state fiscal year, the department shall make the following 3044  
adjustment to the number of points that CMS assigned to the 3045  
nursing facility for each of the quality metrics specified in 3046  
divisions (C) (1) (a) and (c) of this section: 3047

(a) Unless division (C) (2) (b) or (c) of this section 3048

applies, divide the number of the nursing facility's points for 3049  
the quality metric by twenty. 3050

(b) If CMS assigned the nursing facility to the lowest 3051  
percentile for the quality metric, reduce the number of the 3052  
nursing facility's points for the quality metric to zero. 3053

(c) If the nursing facility's total number of points 3054  
calculated for or during a state fiscal year for all of the 3055  
quality metrics specified in divisions (C)(1)(a), and if 3056  
applicable, division (C)(1)(c) of this section is less than a 3057  
number of points that is equal to the twenty-fifth percentile of 3058  
all nursing facilities, calculated using the points for the July 3059  
1 rate setting of that fiscal year reduce the nursing facility's 3060  
points to zero until the next point calculation. If a facility's 3061  
recalculated points under division (C)(3) of this section are 3062  
below the number of points determined to be the twenty-fifth 3063  
percentile for that fiscal year, the facility shall receive zero 3064  
points for the remainder of that fiscal year. 3065

(3) A nursing facility's quality score shall be 3066  
recalculated for the second half of the state fiscal year based 3067  
on the most recent four quarter average data, or the average 3068  
data for fewer quarters in the case of successor metrics, 3069  
available in the database maintained by CMS and known as the 3070  
care compare, in the most recent month of the calendar year 3071  
during which the fiscal year for which the rate is determined 3072  
begins. The metrics specified by division (C)(1)(b) of this 3073  
section shall not be recalculated. In redetermining the quality 3074  
payment for each facility based on the recalculated points, the 3075  
department shall use the same per point value determined for the 3076  
quality payment at the start of the fiscal year. 3077

(D) A nursing facility shall not receive a quality 3078

incentive payment if the Department of Health assigned the 3079  
nursing facility to the SFF list under the special focus 3080  
facility program and the nursing facility is listed in table A, 3081  
on the first day of May of the calendar year for which the rate 3082  
is being determined. 3083

(E) The total amount to be spent on quality incentive 3084  
payments under division (B) of this section for a fiscal year 3085  
shall be determined as follows: 3086

(1) Determine the following amount for each nursing 3087  
facility: 3088

(a) The amount that is five and two-tenths per cent of the 3089  
nursing facility's base rate for nursing facility services 3090  
provided on the first day of the state fiscal year plus one 3091  
dollar and seventy-nine cents plus sixty per cent of the per 3092  
diem amount by which the nursing facility's rate for direct care 3093  
costs determined for the fiscal year under section 5165.19 of 3094  
the Revised Code changed as a result of the rebasing conducted 3095  
under section 5165.36 of the Revised Code. 3096

(b) Multiply the amount determined under division (E) (1) 3097  
(a) of this section by the number of the nursing facility's 3098  
medicaid days for the calendar year preceding the fiscal year 3099  
for which the rate is determined. 3100

(2) Determine the sum of the products determined under 3101  
division (E) (1) (b) of this section for all nursing facilities 3102  
for which the product was determined for the state fiscal year. 3103

(3) To the sum determined under division (E) (2) of this 3104  
section, add one hundred twenty-five million dollars. 3105

(F) (1) Beginning July 1, 2023, a new nursing facility 3106  
shall receive a quality incentive payment for the fiscal year in 3107

which the new facility obtains an initial provider agreement and 3108  
the immediately following fiscal year equal to the median 3109  
quality incentive payment determined for nursing facilities for 3110  
the fiscal year. For the state fiscal year after the immediately 3111  
following fiscal year and subsequent fiscal years, the quality 3112  
incentive payment shall be determined under division (C) of this 3113  
section. 3114

(2) A nursing facility that undergoes a change of operator 3115  
with an effective date of July 1, 2023, or later shall not 3116  
receive a quality incentive payment until the earlier of the 3117  
first day of January or the first day of July that is at least 3118  
six months after the effective date of the change of operator. 3119  
Thereafter quality incentive payment shall be determined under 3120  
division (C) of this section. 3121

(3) A nursing facility that undergoes a change of owner 3122  
with an effective date of July 1, 2023, or later shall not 3123  
receive a quality incentive payment until the earlier of the 3124  
first day of January or the first day of July that is at least 3125  
six months after the effective date of the change of owner if, 3126  
within one year after the change of owner, there is a material 3127  
increase in the lease payments or other financial obligations of 3128  
the operator to the owner. Thereafter, any quality incentive 3129  
payments for the facility shall be determined under division (C) 3130  
of this section. 3131

**Sec. 5165.51.** (A) An exiting operator or owner and 3132  
entering operator shall provide the department of medicaid 3133  
written notice of a change of operator if the nursing facility 3134  
participates in the medicaid program and the entering operator 3135  
seeks to continue the nursing facility's participation. The 3136  
written notice shall be provided to the department in accordance 3137

with the method specified in rules authorized by section 5165.53 3138  
of the Revised Code. The written notice shall be provided to the 3139  
department not later than forty-five days before the effective 3140  
date of the change of operator if the change of operator does 3141  
not entail the relocation of residents. The written notice shall 3142  
be provided to the department not later than ninety days before 3143  
the effective date of the change of operator if the change of 3144  
operator entails the relocation of residents. The department may 3145  
waive the time requirements of division (A) of this section in 3146  
an emergency, such as the death of the operator. 3147

The written notice shall include all of the following: 3148

(1) The name of the exiting operator and, if any, the 3149  
exiting operator's authorized agent; 3150

(2) The name of the nursing facility that is the subject 3151  
of the change of operator; 3152

(3) The exiting operator's seven-digit medicaid legacy 3153  
number and ten-digit national provider identifier number for the 3154  
nursing facility that is the subject of the change of operator; 3155

(4) The name of the entering operator; 3156

(5) The effective date of the change of operator; 3157

(6) The manner in which the entering operator becomes the 3158  
nursing facility's operator, including through sale, lease, 3159  
merger, or other action; 3160

(7) If the manner in which the entering operator becomes 3161  
the nursing facility's operator involves more than one step, a 3162  
description of each step; 3163

(8) Written authorization from the exiting operator or 3164  
owner and entering operator for the department to process a 3165

provider agreement for the entering operator; 3166

(9) The names and addresses of the persons to whom the 3167  
department should send initial correspondence regarding the 3168  
change of operator; 3169

(10) If the nursing facility also participates in the 3170  
medicare program, notification of whether the entering operator 3171  
intends to accept assignment of the exiting operator's medicare 3172  
provider agreement; 3173

(11) The signature of the exiting operator's or owner's 3174  
representative. 3175

(B) An owner shall provide the department of medicaid 3176  
written notice of a change of owner. The written notice shall be 3177  
provided to the department in accordance with the method 3178  
specified in rules adopted under section 5165.53 of the Revised 3179  
Code. The written notice shall be provided to the department not 3180  
later than forty-five days before the effective date of the 3181  
change of owner. The department may waive the time requirements 3182  
of division (B) of this section in an emergency, such as the 3183  
death of the operator. 3184

The written notice shall include all of the following: 3185

(1) The name of the owner and the owner's authorized 3186  
agent, if any; 3187

(2) The name of the nursing facility that is the subject 3188  
of the change of owner; 3189

(3) The seven-digit medicaid legacy number and ten-digit 3190  
national provider identification number for the nursing facility 3191  
that is the subject of the change of owner; 3192

(4) The extent of the owner's interest in the nursing 3193



<u>facility;</u>	3194
<u>(5) The effective date of the change of owner;</u>	3195
<u>(6) The manner in which the change of owner is accomplished, including through sale, merger, or other action;</u>	3196 3197
<u>(7) If the manner in which the change of owner is accomplished involves more than one step, a description of each step;</u>	3198 3199 3200
<u>(8) The names and addresses of the persons to whom the department should send correspondence regarding the change of owner;</u>	3201 3202 3203
<u>(9) A statement describing any material increase in lease payments or other financial obligations of the operator to the owner resulting from the change of owner, or affirming that there is no material increase;</u>	3204 3205 3206 3207
<u>(10) The signature of the owner's representative.</u>	3208
<u>(C) An exiting operator<del> or owner and</del>, entering operator,<del> or owner</del> immediately shall provide the department written notice of any changes to information included in a written notice <del>of a change of operator</del> provided under division (A) or (B) of this section that occur <u>within one year</u> after that notice is provided to the department. The notice of the changes shall be provided to the department in accordance with the method specified in rules authorized by section 5165.53 of the Revised Code.</u>	3209 3210 3211 3212 3213 3214 3215 3216
<b>Sec. 5165.511.</b> The department of medicaid may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met:	3217 3218 3219 3220
(A) The department receives a properly completed written	3221

notice required by section 5165.51 of the Revised Code on or 3222  
before the date required by that section. 3223

(B) The department receives from the department of health 3224  
notice of intent to grant a change of operator license issued 3225  
under division (B) of section 3721.026 of the Revised Code. 3226

(C) The department receives both of the following in 3227  
accordance with the method specified in rules authorized by 3228  
section 5165.53 of the Revised Code and not later than ten days 3229  
after the effective date of the change of operator: 3230

(1) From the entering operator, a completed application 3231  
for a provider agreement and all other forms and documents 3232  
specified in rules authorized by section 5165.53 of the Revised 3233  
Code; 3234

(2) From the exiting operator or owner, all forms and 3235  
documents specified in rules authorized by section 5165.53 of 3236  
the Revised Code. 3237

~~(C)~~ (D) The entering operator is eligible for medicaid 3238  
payments as provided in section 5165.06 of the Revised Code. 3239

**Sec. 5165.518.** (A) Each nursing facility shall ensure that 3240  
the identity of the operator that holds the license to operate 3241  
the facility issued under section 3721.02 of the Revised Code 3242  
and the operator that holds the medicaid provider agreement for 3243  
the facility issued under section 5165.07 of the Revised Code is 3244  
the same person and is consistently identified for both 3245  
purposes. 3246

(B) A nursing facility that has a difference in the 3247  
identity of the operator that holds the license to operate the 3248  
facility issued under section 3721.02 of the Revised Code and 3249  
the operator holding the medicaid provider agreement for the 3250

facility issued under section 5165.07 of the Revised Code shall, 3251  
not later than one year after the effective date of this 3252  
section, take action to ensure that the same person is the 3253  
operator for both purposes and is consistently identified for 3254  
both purposes. An action taken in accordance with this division 3255  
shall not be considered a change of operator as defined in 3256  
section 3721.01 or 5165.01 of the Revised Code. 3257

**Section 2.** That existing sections 3702.593, 3721.01, 3258  
3721.026, 3721.072, 3721.121, 3721.28, 3721.30, 3721.31, 3259  
3721.32, 4723.32, 4723.61, 4723.64, 4723.65, 4723.651, 4723.653, 3260  
4723.66, 4723.67, 4723.68, 4723.69, 4729.41, 5124.15, 5124.151, 3261  
5165.01, 5165.06, 5165.26, 5165.51, and 5165.511 of the Revised 3262  
Code are hereby repealed. 3263

**Section 3.** Section 3702.593 of the Revised Code as 3264  
presented in this act takes effect on the later of September 30, 3265  
2024, or the effective date of this section. 3266

(September 30, 2024, is the effective date of an earlier 3267  
amendment to that section by H.B. 110 of the 134th General 3268  
Assembly.) 3269

**Section 4.** Notwithstanding division (D) (2) of section 3270  
3702.593 of the Revised Code, in addition to the acceptance and 3271  
review periods provided for in that division, certificate of 3272  
need applications for the purposes specified in that section 3273  
shall be accepted during the first month that is six months 3274  
after the effective date of this section and reviewed through 3275  
the last day of the ninth month after the month in which 3276  
applications are accepted under this section. Thereafter, 3277  
applications shall be accepted and reviewed only in accordance 3278  
with division (D) (2) of section 3702.593 of the Revised Code. 3279

**Section 5.** In accordance with the amendments to section 3280  
5124.15 of the Revised Code made by this act, the Department of 3281  
Developmental Disabilities shall redetermine the per Medicaid 3282  
day payment rate for an ICF/IID in peer group 5 that on July 1, 3283  
2023, exceeded the average total per Medicaid day payment rate 3284  
in effect on July 1, 2013, for developmental centers. 3285

**Section 6.** That Section 333.270 of H.B. 33 of the 135th 3286  
General Assembly be amended to read as follows: 3287

**Sec. 333.270.** LOCKABLE AND TAMPER-EVIDENT CONTAINERS 3288

(A) As used in this section, "lockable container" and 3289  
"tamper-evident container" have the same meanings as in Section 3290  
337.205 of H.B. 110 of the 134th General Assembly. 3291

(B) The Department of Medicaid shall reimburse pharmacists 3292  
for costs related to dispensing drugs in lockable containers or 3293  
tamper-evident containers. 3294

(C) Not later than thirty days after the effective date of 3295  
this amendment, the Department shall do all of the following: 3296

(1) Add lockable containers and tamper-evident containers 3297  
that are available on the market to the covered over-the-counter 3298  
(OTC) products list, and thereafter, add products to the list 3299  
from time to time on the request of any manufacturer; 3300

(2) Establish the additional fee to be paid to pharmacists 3301  
who seek reimbursement pursuant to this section for costs 3302  
related to dispensing drugs in lockable containers or tamper- 3303  
evident containers, submitted by the pharmacy with the product's 3304  
corresponding National Drug Code (NDC) in the claim. The 3305  
additional fee shall equal the sum of both of the following: 3306

(a) The wholesale acquisition cost (WAC) of the lockable 3307

or tamper-evident container plus or minus a percentage of WAC, 3308  
the latter of which shall be consistent with the Department's 3309  
listed percentage of WAC for products with comparably structured 3310  
rates on the covered OTC products list; 3311

(b) Forty-seven per cent of the current then in-effect 3312  
dispensing fee based on the biennial cost of dispensing survey. 3313

(3) Instruct the single pharmacy benefit manager to do 3314  
both of the following: 3315

(a) Incorporate electronic alerts to pharmacies on claims 3316  
submitted for medications identified in division (G) of this 3317  
section, alerting pharmacies that those medications dispensed 3318  
qualify for the additional fee described in this section; 3319

(b) Make any and all contractual amendments, or provide 3320  
any and all contractual waivers, necessary to affect the 3321  
benefit, to or with any contracted third-party pharmacy 3322  
providers, including without limitation the single pharmacy 3323  
benefit manager and the pharmacy pricing and audit consultant. 3324

(D) Not later than ninety days after the effective date of 3325  
this amendment, the Department shall: 3326

(1) Begin reimbursing pharmacists pursuant to this 3327  
section; 3328

(2) To the extent any federal regulations require a waiver 3329  
to preserve the Department's eligibility for drawdown of federal 3330  
matching funds to fund the benefit, apply for such waiver; 3331

(3) Notify members, prescribers, and pharmacies of the 3332  
additional benefit; 3333

(4) Take any other actions in accordance with its standard 3334  
practices for adding a pharmacy benefit. 3335

(E) Beginning June 30, 2025, within a reasonable time at 3336  
the end of each fiscal year, the Department shall publish an 3337  
annual report to members of the General Assembly, the State 3338  
Board of Pharmacy, the Department of Mental Health and Addiction 3339  
Services, and the Joint Medicaid Oversight Committee containing 3340  
measures of adoption by licensed pharmacies, by percentage of 3341  
qualifying prescriptions dispensed statewide, by percentage of 3342  
patients for which the prescription was dispensed, the mix of 3343  
provider specialties for provider-prescribed medications, and 3344  
any other measures of adoption requested by such recipients. 3345

(F) A prescription for a drug dispensed by a pharmacy 3346  
shall be considered in tandem a qualifying prescription for the 3347  
lockable container or tamper-evident container dispensed with 3348  
the prescription, and the separate reimbursement shall not be 3349  
subject to any separate prescriber indication for using such 3350  
container in filling the prescription, and allow the pharmacy or 3351  
pharmacist to be listed as the prescriber where necessary. 3352

(G) The fee described in division (C) of this section 3353  
applies as follows: 3354

(1) Beginning on the effective date of this amendment, to 3355  
medications used in addiction treatment, opioids in Schedule II 3356  
of the Controlled Substances Act, and to any other medications 3357  
designated by the State Board of Pharmacy; 3358

(2) Beginning July 1, 2025, to medications identified in 3359  
division (G)(1) of this section, medications listed in Schedules 3360  
II and III and benzodiazepines listed in Schedule IV of the 3361  
Controlled Substances Act, and to any medication for which a 3362  
prescriber prescribes a lockable container or tamper-evident 3363  
container. 3364

(H) The Department of Medicaid may adopt rules to 3365  
establish the requirements and reimbursement for mail-order 3366  
pharmacies to participate in the program. 3367

**Section 7.** That existing Section 333.270 of H.B. 33 of the 3368  
135th General Assembly is hereby repealed. 3369

**Section 8.** That Section 280.12 of H.B. 45 of the 134th 3370  
General Assembly (as amended by H.B. 33 of the 135th General 3371  
Assembly) be amended to read as follows: 3372

**Sec. 280.12.** The foregoing appropriation item 042628, 3373  
Adult Day Care, shall be used by the Director of Budget and 3374  
Management to administer grants to eligible adult day care 3375  
providers ~~during~~. An amount equal to the unexpended, 3376  
unencumbered balance of the appropriation item at the end of 3377  
fiscal year 2023, and the remaining \$4,000,000 shall be is 3378  
hereby reappropriated and administered during fiscal year 2023 3379  
to fiscal year 2024 for the same purpose. An amount equal to the 3380  
unexpended, unencumbered balance of the appropriation item at 3381  
the end of fiscal year 2024, is hereby reappropriated to fiscal 3382  
year 2025 for the same purpose. The Director shall administer 3383  
all grants not later than December 31, 2024. 3384

**Section 9.** That existing Section 280.12 of H.B. 45 of the 3385  
134th General Assembly (as amended by H.B. 33 of the 135th 3386  
General Assembly) is hereby repealed. 3387