

**As Introduced**

**136th General Assembly  
Regular Session  
2025-2026**

**H. B. No. 876**

**Representative Craig**

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To amend sections 173.39 and 173.391 and to enact 1  
section 173.394 of the Revised Code regarding 2  
shared bathrooms under the assisted living 3  
program. 4

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

**Section 1.** That sections 173.39 and 173.391 be amended and 5  
section 173.394 of the Revised Code be enacted to read as 6  
follows: 7

**Sec. 173.39.** (A) As used in sections 173.39 to ~~173.393~~ 8  
173.394 of the Revised Code: 9

(1) "Provider" means a person or government entity that 10  
provides any services, including community-based long-term care 11  
services, under a program the department of aging administers. 12  
"Provider" includes a person or government entity that provides 13  
home and community-based services to older adults through the 14  
PASSPORT program or assisted living program. 15

(2) "Community-based long-term care services" has the same 16  
meaning as in section 173.14 of the Revised Code. 17

(3) "PASSPORT program" and "assisted living program" have 18  
the same meanings as in section 173.51 of the Revised Code. 19

(B) The department of aging shall not pay a provider for providing any service, including community-based long-term care services, under the PASSPORT program or assisted living program unless the provider is certified under section 173.391 of the Revised Code and the service is in fact provided.

The department may require a provider under any other program the department administers to be certified under section 173.391 of the Revised Code. If the department requires this certification, the department shall not pay the provider for providing any service under that program unless the provider is certified under section 173.391 of the Revised Code and the service is in fact provided. If the department does not require this certification, the department shall not pay the provider for providing any service under that program unless the provider complies with section 173.392 of the Revised Code.

**Sec. 173.391.** (A) Subject to section 173.381 of the Revised Code and except as provided in division (I) of this section, the department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code:

(1) Certify a provider to provide services, including community-based long-term care services, under a program the department administers if the provider satisfies the requirements for certification established by rules adopted under division (B) of this section and pays the fee, if any, established by rules adopted under division (G) of this section;

(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a provider certified under division (A) (1) of this section:

(a) Issue a written warning;	50
(b) Require the submission of both of the following: a plan of correction and evidence of compliance with requirements identified by the department;	51 52 53
(c) Suspend referrals;	54
(d) Remove clients;	55
(e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid;	56 57
(f) Suspend the certification;	58
(g) Revoke the certification;	59
(h) Impose another sanction.	60
(3) Except as provided in division (E) of this section, hold hearings when there is a dispute between the department or its designee and a provider concerning actions the department or its designee takes regarding a decision not to certify the provider under division (A) (1) of this section or a disciplinary action under divisions (A) (2) (e) to (h) of this section.	61 62 63 64 65 66
(B) <del>The</del> <u>Subject to section 173.394 of the Revised Code,</u> <u>the</u> director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A) (2) of this section in individual situations. The rules shall establish procedures for all of the following:	67 68 69 70 71 72 73
(1) Ensuring that providers comply with sections 173.38 and 173.381 of the Revised Code;	74 75
(2) Evaluating the services provided by the providers to	76

ensure that the services are provided in a quality manner 77  
advantageous to the individual receiving the services; 78

(3) In a manner consistent with section 173.381 of the 79  
Revised Code, determining when to take disciplinary action under 80  
division (A) (2) of this section and which disciplinary action to 81  
take; 82

(4) Determining what constitutes another sanction for 83  
purposes of division (A) (2) (h) of this section. 84

(C) The procedures established in rules adopted under 85  
division (B) (2) of this section shall require that all of the 86  
following be considered as part of an evaluation described in 87  
division (B) (2) of this section: 88

(1) The provider's experience and financial 89  
responsibility; 90

(2) The provider's ability to comply with standards for 91  
the services, including community-based long-term care services, 92  
that the provider provides under a program the department 93  
administers; 94

(3) The provider's ability to meet the needs of the 95  
individuals served; 96

(4) Any other factor the director considers relevant. 97

(D) The rules adopted under division (B) (3) of this 98  
section shall specify that the reasons disciplinary action may 99  
be taken under division (A) (2) of this section include good 100  
cause, including misfeasance, malfeasance, nonfeasance, 101  
confirmed abuse or neglect, financial irresponsibility, or other 102  
conduct the director determines is injurious, or poses a threat, 103  
to the health or safety of individuals being served. 104

(E) Subject to division (F) of this section, the 105  
department is not required to hold hearings under division (A) 106  
(3) of this section if any of the following conditions apply: 107

(1) Rules adopted by the director of aging pursuant to 108  
this chapter require the provider to be a party to a provider 109  
agreement; hold a license, certificate, or permit; or maintain a 110  
certification, any of which is required or issued by a state or 111  
federal government entity other than the department of aging, 112  
and either of the following is the case: 113

(a) The provider agreement has not been entered into or 114  
the license, certificate, permit, or certification has not been 115  
obtained or maintained. 116

(b) The provider agreement, license, certificate, permit, 117  
or certification has been denied, revoked, not renewed, or 118  
suspended or has been otherwise restricted. 119

(2) The provider's certification under this section has 120  
been denied, suspended, or revoked for any of the following 121  
reasons: 122

(a) A government entity of this state, other than the 123  
department of aging, has terminated or refused to renew any of 124  
the following held by, or has denied any of the following sought 125  
by, a provider: a provider agreement, license, certificate, 126  
permit, or certification. Division (E) (2) (a) of this section 127  
applies regardless of whether the provider has entered into a 128  
provider agreement in, or holds a license, certificate, permit, 129  
or certification issued by, another state. 130

(b) The provider or a principal owner or manager of the 131  
provider who provides direct care has entered a guilty plea for, 132  
or has been convicted of, an offense materially related to the 133

medicaid program. 134

(c) The provider or a principal owner or manager of the 135  
provider who provides direct care has entered a guilty plea for, 136  
been convicted of, or been found eligible for intervention in 137  
lieu of conviction for an offense listed or described in 138  
divisions (A) (3) (a) to (e) of section 109.572 of the Revised 139  
Code, but only if the provider, principal owner, or manager does 140  
not meet standards specified by the director in rules adopted 141  
under section 173.38 of the Revised Code. 142

(d) The department or its designee is required by section 143  
173.381 of the Revised Code to deny or revoke the provider's 144  
certification. 145

(e) The United States department of health and human 146  
services has taken adverse action against the provider and that 147  
action impacts the provider's participation in the medicaid 148  
program. 149

(f) The provider has failed to enter into or renew a 150  
provider agreement with either of the following: the department 151  
or the PASSPORT administrative agency, as that term is defined 152  
in section 173.42 of the Revised Code, that administers programs 153  
on behalf of the department of aging in the region of the state 154  
in which the provider is certified to provide services. 155

(g) The provider has not billed or otherwise submitted a 156  
claim to the department for payment under the medicaid program 157  
in at least two years. 158

(h) The provider denied or failed to provide the 159  
department or its designee access to the provider's facilities 160  
during the provider's normal business hours for purposes of 161  
conducting an audit or structural compliance review. 162

(i) The provider has ceased doing business.	163
(j) The provider has voluntarily relinquished its certification for any reason.	164 165
(3) The provider's provider agreement with the department of medicaid has been suspended under section 5164.36 of the Revised Code.	166 167 168
(4) The provider's provider agreement with the department of medicaid is denied or revoked because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section 5164.36 of the Revised Code.	169 170 171 172 173 174
(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department shall send a notice to the provider describing a decision not to certify the provider under division (A) (1) of this section or the disciplinary action the department is taking under divisions (A) (2) (e) to (h) of this section. The notice shall be sent to the provider's address that is on record with the department and may be sent by regular or electronic mail.	175 176 177 178 179 180 181 182
(G) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee to be charged by the department of aging or its designee for certification issued under division (A) of this section.	183 184 185 186
(H) Any amounts collected by the department or its designee under this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used to pay for services, including community-based long-term care	187 188 189 190 191

services, to pay for administrative costs associated with 192  
provider certification under this section, and to pay for 193  
administrative costs related to the publication of the Ohio 194  
long-term care consumer guide. 195

(I) The director shall certify a provider in accordance 196  
with Chapter 4796. of the Revised Code if either of the 197  
following applies: 198

(1) The provider is licensed or certified in another 199  
state. 200

(2) The provider has satisfactory work experience, a 201  
government certification, or a private certification as 202  
described in that chapter as a provider of community-based long- 203  
term care services under a state program in a state that does 204  
not issue that license or certificate. 205

**Sec. 173.394.** (A) As used in this section: 206

(1) "Full bathroom" means a bathroom that includes a 207  
toilet, sink, and shower or bathtub. 208

(2) "Fully enclosed shared bathroom facilities" means a 209  
shared bathroom that is not accessible directly from a 210  
resident's living quarters. 211

(3) "Half bathroom" means a bathroom that includes a 212  
toilet and sink. 213

(4) "Residential care facility" has the same meaning as in 214  
section 3721.01 of the Revised Code. 215

(B) The department of aging shall not deny certification 216  
to a residential care facility that seeks to participate in the 217  
assisted living program on the basis of either of the following: 218

(1) The residential care facility's resident units are 219  
such that two residents share a full bathroom, so long as all of 220  
the following are satisfied: 221

(a) The shared full bathroom satisfies either of the 222  
following: 223

(i) It is accessible from the living quarters of each 224  
resident's unit, does not require one resident to pass through 225  
the living quarters of another resident, and allows each 226  
resident to lock both bathroom doors to prevent access to the 227  
bathroom while it is in use; 228

(ii) The residential care facility's resident units 229  
include a shared common space, and the full bathroom is 230  
accessible only from that shared common space. 231

(b) In addition to the shared bathroom, the residential 232  
care facility also offers the use of at least one other half 233  
bathroom to its residents that is located on the same floor as 234  
the resident's unit and that is not connected to any resident's 235  
individual unit. 236

(c) The shared bathrooms and other accessible bathrooms 237  
meet the accessibility requirements of the "Americans with 238  
Disabilities Act of 1990," 42 U.S.C. 12101. 239

(d) The residential care facility informs residents of the 240  
shared bathroom arrangement prior to admission to the 241  
residential care facility, and residents sign a written consent 242  
form acknowledging the arrangement. 243

(2) When providing memory care services to residents in 244  
the portion of a residential care facility that serves as a 245  
memory care unit, the facility utilizes fully enclosed shared 246  
bathroom facilities. 247

**Section 2.** That existing sections 173.39 and 173.391 of 248  
the Revised Code are hereby repealed. 249