

**As Introduced**

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

**H. B. No. 530**

**Representative Retherford**

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**A BILL**

To amend sections 5104.01, 5104.015, and 5104.99 1  
and to enact sections 5104.0113, 5104.15, 2  
5104.16, and 5104.17 of the Revised Code to 3  
provide for the licensure of sick-child care 4  
centers. 5

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

**Section 1.** That sections 5104.01, 5104.015, and 5104.99 be 6  
amended and sections 5104.0113, 5104.15, 5104.16, and 5104.17 of 7  
the Revised Code be enacted to read as follows: 8

**Sec. 5104.01.** As used in this chapter: 9

(A) "Administrator" means the person responsible for the 10  
daily operation of a center, type A home, or type B home. The 11  
administrator and the owner may be the same person. 12

(B) "Approved child day camp" means a child day camp 13  
approved pursuant to section 5104.22 of the Revised Code. 14

(C) "Border state child care provider" means a child care 15  
provider that is located in a state bordering Ohio and that is 16  
licensed, certified, or otherwise approved by that state to 17  
provide child care. 18

(D) "Career pathways model" means an alternative pathway to meeting the requirements to be a child-care staff member or administrator that does both of the following:

(1) Uses a framework approved by the director of job and family services to document formal education, training, experience, and specialized credentials and certifications;

(2) Allows the child-care staff member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(G) "Child" includes an infant, toddler, preschool-age child, or school-age child.

(H) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(I) "Child day camp" means a program in which only school-age children attend or participate, that operates for no more

than seven hours per day, that operates only during one or more 48  
public school district's regular vacation periods or for no more 49  
than fifteen weeks during the summer, and that operates outdoor 50  
activities for each child who attends or participates in the 51  
program for a minimum of fifty per cent of each day that 52  
children attend or participate in the program, except for any 53  
day when hazardous weather conditions prevent the program from 54  
operating outdoor activities for a minimum of fifty per cent of 55  
that day. For purposes of this division, the maximum seven hours 56  
of operation time does not include transportation time from a 57  
child's home to a child day camp and from a child day camp to a 58  
child's home. 59

(J) "Child care" means all of the following: 60

(1) Administering to the needs of infants, toddlers, 61  
preschool-age children, and school-age children outside of 62  
school hours; 63

(2) By persons other than their parents, guardians, or 64  
custodians; 65

(3) For any part of the twenty-four-hour day; 66

(4) In a place other than a child's own home, except that 67  
an in-home aide provides child care in the child's own home. 68

(K) "Child day-care center" and "center" mean any place in 69  
which child care or publicly funded child care is provided for 70  
thirteen or more children at one time or any place that is not 71  
the permanent residence of the licensee or administrator in 72  
which child care or publicly funded child care is provided for 73  
seven to twelve children at one time. In counting children for 74  
the purposes of this division, any children under six years of 75  
age who are related to a licensee, administrator, or employee 76

and who are on the premises of the center shall be counted. 77  
"Child day-care center" and "center" do not include any of the 78  
following: 79

(1) A place located in and operated by a hospital, as 80  
defined in section 3727.01 of the Revised Code, in which the 81  
needs of children are administered to, if all the children whose 82  
needs are being administered to are monitored under the on-site 83  
supervision of a physician licensed under Chapter 4731. of the 84  
Revised Code or a registered nurse licensed under Chapter 4723. 85  
of the Revised Code, and the services are provided only for 86  
children who, in the opinion of the child's parent, guardian, or 87  
custodian, are exhibiting symptoms of a communicable disease or 88  
other illness or are injured; 89

(2) A sick-child care center; 90

(3) A child day camp; 91

~~(3)~~ (4) A place that provides child care, but not publicly 92  
funded child care, if all of the following apply: 93

(a) An organized religious body provides the child care; 94

(b) A parent, custodian, or guardian of at least one child 95  
receiving child care is on the premises and readily accessible 96  
at all times; 97

(c) The child care is not provided for more than thirty 98  
days a year; 99

(d) The child care is provided only for preschool-age and 100  
school-age children. 101

(L) "Child care resource and referral service 102  
organization" means a community-based nonprofit organization 103  
that provides child care resource and referral services but not 104

child care.	105
(M) "Child care resource and referral services" means all	106
of the following services:	107
(1) Maintenance of a uniform data base of all child care	108
providers in the community that are in compliance with this	109
chapter, including current occupancy and vacancy data;	110
(2) Provision of individualized consumer education to	111
families seeking child care;	112
(3) Provision of timely referrals of available child care	113
providers to families seeking child care;	114
(4) Recruitment of child care providers;	115
(5) Assistance in the development, conduct, and	116
dissemination of training for child care providers and provision	117
of technical assistance to current and potential child care	118
providers, employers, and the community;	119
(6) Collection and analysis of data on the supply of and	120
demand for child care in the community;	121
(7) Technical assistance concerning locally, state, and	122
federally funded child care and early childhood education	123
programs;	124
(8) Stimulation of employer involvement in making child	125
care more affordable, more available, safer, and of higher	126
quality for their employees and for the community;	127
(9) Provision of written educational materials to	128
caretaker parents and informational resources to child care	129
providers;	130
(10) Coordination of services among child care resource	131

and referral service organizations to assist in developing and 132  
maintaining a statewide system of child care resource and 133  
referral services if required by the department of job and 134  
family services; 135

(11) Cooperation with the county department of job and 136  
family services in encouraging the establishment of parent 137  
cooperative child care centers and parent cooperative type A 138  
family day-care homes. 139

(N) "Child-care staff member" means an employee of a child 140  
day-care center or type A family day-care home who is primarily 141  
responsible for the care and supervision of children. The 142  
administrator may be a part-time child-care staff member when 143  
not involved in other duties. 144

(O) "Drop-in child day-care center," "drop-in center," 145  
"drop-in type A family day-care home," and "drop-in type A home" 146  
mean a center or type A home that provides child care or 147  
publicly funded child care for children on a temporary, 148  
irregular basis. 149

(P) "Employee" means a person who either: 150

(1) Receives compensation for duties performed in a child 151  
day-care center or type A family day-care home; 152

(2) Is assigned specific working hours or duties in a 153  
child day-care center or type A family day-care home. 154

(Q) "Employer" means a person, firm, institution, 155  
organization, or agency that operates a child day-care center or 156  
type A family day-care home subject to licensure under this 157  
chapter. 158

(R) "Federal poverty line" means the official poverty 159

guideline as revised annually in accordance with section 673(2) 160  
of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 161  
511, 42 U.S.C. 9902, as amended, for a family size equal to the 162  
size of the family of the person whose income is being 163  
determined. 164

(S) "Head start program" means a comprehensive child 165  
development program serving birth to three years old and 166  
preschool-age children that receives funds distributed under the 167  
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 168  
amended, and is licensed as a child day-care center. 169

(T) "Income" means gross income, as defined in section 170  
5107.10 of the Revised Code, less any amounts required by 171  
federal statutes or regulations to be disregarded. 172

(U) "Indicator checklist" means an inspection tool, used 173  
in conjunction with an instrument-based program monitoring 174  
information system, that contains selected licensing 175  
requirements that are statistically reliable indicators or 176  
predictors of a child day-care center's type A family day-care 177  
home's, or licensed type B family day-care home's compliance 178  
with licensing requirements. 179

(V) "Infant" means a child who is less than eighteen 180  
months of age. 181

(W) "In-home aide" means a person who does not reside with 182  
the child but provides care in the child's home and is certified 183  
by a county director of job and family services pursuant to 184  
section 5104.12 of the Revised Code to provide publicly funded 185  
child care to a child in a child's own home pursuant to this 186  
chapter and any rules adopted under it. 187

(X) "Instrument-based program monitoring information 188

system" means a method to assess compliance with licensing 189  
requirements for child day-care centers, type A family day-care 190  
homes, and licensed type B family day-care homes in which each 191  
licensing requirement is assigned a weight indicative of the 192  
relative importance of the requirement to the health, growth, 193  
and safety of the children that is used to develop an indicator 194  
checklist. 195

(Y) "License capacity" means the maximum number in each 196  
age category of children who may be cared for in a child day- 197  
care center or type A family day-care home at one time as 198  
determined by the director of job and family services 199  
considering building occupancy limits established by the 200  
department of commerce, amount of available indoor floor space 201  
and outdoor play space, and amount of available play equipment, 202  
materials, and supplies. For the purposes of a provisional 203  
license issued under this chapter, the director shall also 204  
consider the number of available child-care staff members when 205  
determining "license capacity" for the provisional license. 206

(Z) "Licensed child care program" means any of the 207  
following: 208

(1) A child day-care center licensed by the department of 209  
job and family services pursuant to this chapter; 210

(2) A type A family day-care home or type B family day- 211  
care home licensed by the department of job and family services 212  
pursuant to this chapter; 213

(3) A licensed preschool program or licensed school child 214  
program. 215

(AA) "Licensed preschool program" or "licensed school 216  
child program" means a preschool program or school child 217

program, as defined in section 3301.52 of the Revised Code, that 218  
is licensed by the department of education pursuant to sections 219  
3301.52 to 3301.59 of the Revised Code. 220

(BB) "Licensed type B family day-care home" and "licensed 221  
type B home" mean a type B family day-care home for which there 222  
is a valid license issued by the director of job and family 223  
services pursuant to section 5104.03 of the Revised Code. 224

(CC) "Licensee" means the owner of a child day-care 225  
center, type A family day-care home, or type B family day-care 226  
home that is licensed pursuant to this chapter and who is 227  
responsible for ensuring its compliance with this chapter and 228  
rules adopted pursuant to this chapter. 229

(DD) "Operate a child day camp" means to operate, 230  
establish, manage, conduct, or maintain a child day camp. 231

(EE) "Owner" includes a person, as defined in section 1.59 232  
of the Revised Code, government entity, firm, organization, 233  
institution, agency, as well as any individual governing board 234  
members, partners, incorporators, agents, or authorized 235  
representatives of the owner. 236

(FF) "Parent cooperative child day-care center," "parent 237  
cooperative center," "parent cooperative type A family day-care 238  
home," and "parent cooperative type A home" mean a corporation 239  
or association organized for providing educational services to 240  
the children of members of the corporation or association, 241  
without gain to the corporation or association as an entity, in 242  
which the services of the corporation or association are 243  
provided only to children of the members of the corporation or 244  
association, ownership and control of the corporation or 245  
association rests solely with the members of the corporation or 246

association, and at least one parent-member of the corporation 247  
or association is on the premises of the center or type A home 248  
during its hours of operation. 249

(GG) "Part-time child day-care center," "part-time 250  
center," "part-time type A family day-care home," and "part-time 251  
type A home" mean a center or type A home that provides child 252  
care or publicly funded child care for not more than four hours 253  
a day for any child or not more than fifteen consecutive weeks 254  
per year, regardless of the number of hours per day. 255

(HH) "Place of worship" means a building where activities 256  
of an organized religious group are conducted and includes the 257  
grounds and any other buildings on the grounds used for such 258  
activities. 259

(II) "Preschool-age child" means a child who is three 260  
years old or older but is not a school-age child. 261

(JJ) "Protective child care" means publicly funded child 262  
care for the direct care and protection of a child to whom 263  
either of the following applies: 264

(1) A case plan prepared and maintained for the child 265  
pursuant to section 2151.412 of the Revised Code indicates a 266  
need for protective care and the child resides with a parent, 267  
stepparent, guardian, or another person who stands in loco 268  
parentis as defined in rules adopted under section 5104.38 of 269  
the Revised Code; 270

(2) The child and the child's caretaker either temporarily 271  
reside in a facility providing emergency shelter for homeless 272  
families or are determined by the county department of job and 273  
family services to be homeless, and are otherwise ineligible for 274  
publicly funded child care. 275

(KK) "Publicly funded child care" means administering to	276
the needs of infants, toddlers, preschool-age children, and	277
school-age children under age thirteen during any part of the	278
twenty-four-hour day by persons other than their caretaker	279
parents for remuneration wholly or in part with federal or state	280
funds, including funds available under the child care block	281
grant act, Title IV-A, and Title XX, distributed by the	282
department of job and family services.	283
(LL) "Religious activities" means any of the following:	284
worship or other religious services; religious instruction;	285
Sunday school classes or other religious classes conducted	286
during or prior to worship or other religious services; youth or	287
adult fellowship activities; choir or other musical group	288
practices or programs; meals; festivals; or meetings conducted	289
by an organized religious group.	290
(MM) "School-age child" means a child who is enrolled in	291
or is eligible to be enrolled in a grade of kindergarten or	292
above but is less than fifteen years old.	293
(NN) "School-age child care center" and "school-age child	294
type A home" mean a center or type A home that provides child	295
care for school-age children only and that does either or both	296
of the following:	297
(1) Operates only during that part of the day that	298
immediately precedes or follows the public school day of the	299
school district in which the center or type A home is located;	300
(2) Operates only when the public schools in the school	301
district in which the center or type A home is located are not	302
open for instruction with pupils in attendance.	303
(OO) <u>"Sick-child care center" means a place that provides</u>	304

child care, including administering to the needs of school-age 305  
children during school hours, for children with short-term 306  
illnesses or other medical conditions on a temporary, irregular 307  
basis. A sick-child care center does not include a place located 308  
in and operated by a hospital, as defined in section 3727.01 of 309  
the Revised Code. 310

(PP) "Serious risk noncompliance" means a licensure or 311  
certification rule violation that leads to a great risk of harm 312  
to, or death of, a child, and is observable, not inferable. 313

~~(PP)~~(OO) "State median income" means the state median 314  
income calculated by the department of development pursuant to 315  
division (A) (1) (g) of section 5709.61 of the Revised Code. 316

~~(OO)~~(RR) "Title IV-A" means Title IV-A of the "Social 317  
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 318

~~(RR)~~(SS) "Title XX" means Title XX of the "Social 319  
Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 320

~~(SS)~~(TT) "Toddler" means a child who is at least eighteen 321  
months of age but less than three years of age. 322

~~(TT)~~(UU) "Type A family day-care home" and "type A home" 323  
mean a permanent residence of the administrator in which child 324  
care or publicly funded child care is provided for seven to 325  
twelve children at one time or a permanent residence of the 326  
administrator in which child care is provided for four to twelve 327  
children at one time if four or more children at one time are 328  
under two years of age. In counting children for the purposes of 329  
this division, any children under six years of age who are 330  
related to a licensee, administrator, or employee and who are on 331  
the premises of the type A home shall be counted. "Type A family 332  
day-care home" and "type A home" do not include any child day 333

camp. 334

~~(UU)~~ (VV) "Type B family day-care home" and "type B home" 335  
mean a permanent residence of the provider in which child care 336  
is provided for one to six children at one time and in which no 337  
more than three children are under two years of age at one time. 338  
In counting children for the purposes of this division, any 339  
children under six years of age who are related to the provider 340  
and who are on the premises of the type B home shall be counted. 341  
"Type B family day-care home" and "type B home" do not include 342  
any child day camp. 343

**Sec. 5104.015.** The director of job and family services 344  
shall adopt rules in accordance with Chapter 119. of the Revised 345  
Code governing the operation of child day-care centers, 346  
including parent cooperative centers, part-time centers, drop-in 347  
centers, and school-age child care centers. The rules shall 348  
reflect the various forms of child care and the needs of 349  
children receiving child care or publicly funded child care and 350  
shall include specific rules for school-age child care centers 351  
that are developed in consultation with the department of 352  
education. The rules shall not require an existing school 353  
facility that is in compliance with applicable building codes to 354  
undergo an additional building code inspection or to have 355  
structural modifications. The rules shall include the following: 356

(A) Submission of a site plan and descriptive plan of 357  
operation to demonstrate how the center proposes to meet the 358  
requirements of this chapter and rules adopted pursuant to this 359  
chapter for the initial license application; 360

(B) Standards for ensuring that the physical surroundings 361  
of the center are safe and sanitary including the physical 362  
environment, the physical plant, and the equipment of the 363

center;	364
(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;	365 366 367
(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.	368 369 370 371 372 373 374 375 376 377
(E) Admissions policies and procedures;	378
(F) Health care policies and procedures, including procedures for <del>the isolation of children</del> <u>isolating a child with a communicable disease and discharging that child to a parent or guardian or to a person or sick-child care center designated by the parent or guardian;</u>	379 380 381 382 383
(G) First aid and emergency procedures;	384
(H) Procedures for discipline and supervision of children;	385
(I) Standards for the provision of nutritious meals and snacks;	386 387
(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section 5104.014 of the Revised Code;	388 389 390
(K) Procedures for screening employees that may include	391

any necessary physical examinations and immunizations;	392
(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;	393 394 395 396
(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;	397 398 399
(N) Procedures for record keeping, organization, and administration;	400 401
(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	402 403 404
(P) Inspection procedures;	405
(Q) Procedures and standards for setting initial license application fees;	406 407
(R) Procedures for receiving, recording, and responding to complaints about centers;	408 409
(S) Procedures for enforcing section 5104.04 of the Revised Code;	410 411
(T) A standard requiring the inclusion of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;	412 413 414 415 416
(U) Requirements for the training of administrators and child-care staff members, including training in first aid, in	417 418

prevention, recognition, and management of communicable 419  
diseases, and in child abuse recognition and prevention; 420

(V) Standards providing for the special needs of children 421  
who are handicapped or who require treatment for health 422  
conditions while the child is receiving child care or publicly 423  
funded child care in the center; 424

(W) A procedure for reporting of injuries of children that 425  
occur at the center; 426

~~(X) Standards for licensing child day care centers for 427  
children with short term illnesses and other temporary medical 428  
conditions; 429~~

~~(Y) Minimum requirements for instructional time for child 430  
day-care centers rated through the step up to quality program 431  
established pursuant to section 5104.29 of the Revised Code; 432~~

~~(Z) (Y) Any other procedures and standards necessary to 433  
carry out the provisions of this chapter regarding child day- 434  
care centers. 435~~

Sec. 5104.0113. The director of job and family services, 436  
in consultation with the director of health, shall adopt rules 437  
in accordance with Chapter 119. of the Revised Code governing 438  
the operation of sick-child care centers. The rules shall be 439  
consistent with sections 5104.15 to 5104.17 of the Revised Code 440  
and reflect the needs of children with short-term illnesses and 441  
other temporary medical conditions. The rules shall include all 442  
of the following: 443

(A) Standards ensuring that the physical environment and 444  
equipment of the sick-child care center are safe and sanitary; 445

(B) Standards for the supervision, care, and discipline of 446

<u>children receiving child care in the center;</u>	447
<u>(C) Standards for qualifications and screening of staff</u>	448
<u>members;</u>	449
<u>(D) Standards for training and continuing education of</u>	450
<u>staff members, including recognizing the signs and symptoms of</u>	451
<u>illnesses, administering medications, making referrals to</u>	452
<u>pediatric specialists or facilities, and communicating with</u>	453
<u>caretaker parents;</u>	454
<u>(E) Admissions policies and procedures;</u>	455
<u>(F) Health care policies and procedures, including all of</u>	456
<u>the following:</u>	457
<u>(1) Medical protocols for specific illnesses or symptoms,</u>	458
<u>developed by a physician who is board-certified in family</u>	459
<u>medicine or general pediatrics, as those designations are issued</u>	460
<u>by a medical specialty certifying board recognized by the</u>	461
<u>American board of medical specialties or American osteopathic</u>	462
<u>association;</u>	463
<u>(2) Infection control, including universal and standard</u>	464
<u>precautions that shall be used by each staff member. The rules</u>	465
<u>shall define and establish requirements for universal and</u>	466
<u>standard precautions that include the following:</u>	467
<u>(a) Appropriate use of hand washing;</u>	468
<u>(b) Disinfection and sterilization of equipment, linens,</u>	469
<u>furniture, walls, flooring, toilets, and other objects;</u>	470
<u>(c) Handling and disposal of needles and other sharp</u>	471
<u>instruments;</u>	472
<u>(d) Wearing and disposal of gloves and other protective</u>	473

<u>garments and devices.</u>	474
<u>(G) Emergency procedures, including procedures for making referrals or transfers to pediatric specialists or facilities;</u>	475 476
<u>(H) Standards for record keeping;</u>	477
<u>(I) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;</u>	478 479 480
<u>(J) Inspection procedures;</u>	481
<u>(K) Procedures and standards for setting initial license application fees;</u>	482 483
<u>(L) Procedures for receiving, recording, and responding to complaints about sick-child care centers;</u>	484 485
<u>(M) Any other standards and procedures necessary to implement sections 5104.15 to 5104.17 of the Revised Code.</u>	486 487
<b><u>Sec. 5104.15.</u></b> <u>(A) As used in this section and sections 5104.16 and 5104.17 of the Revised Code:</u>	488 489
<u>(1) "Certified nurse practitioner," "licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code;</u>	490 491 492
<u>(2) "Nurse aide" has the same meaning as in section 3721.21 of the Revised Code;</u>	493 494
<u>(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.</u>	495 496 497
<u>(B) The director of job and family services is responsible for licensing sick-child care centers. No person, firm, organization, institution, or agency shall operate, establish,</u>	498 499 500

manage, conduct, or maintain a sick-child care center without a 501  
license issued under this section. The current license shall be 502  
posted in a conspicuous place that is accessible to parents, 503  
custodians, or guardians and employees of the sick-child care 504  
center at all times when it is in operation. 505

(C) (1) Any person, firm, organization, institution, or 506  
agency seeking to establish a sick-child care center shall apply 507  
for a license to the director of job and family services on such 508  
form as the director prescribes. The application shall include 509  
all of the following: 510

(a) A site plan and proposal describing how the sick-child 511  
care center proposes to satisfy the requirements of this section 512  
and sections 5104.16 and 5104.17 of the Revised Code and rules 513  
adopted pursuant to section 5104.0113 of the Revised Code; 514

(b) The maximum number of children served by the sick- 515  
child care center at one time; 516

(c) The number of adults providing sick-child care for the 517  
children; 518

(d) An admissions policy that meets the requirements of 519  
section 5104.17 of the Revised Code; 520

(e) Any other information the director considers 521  
necessary. 522

(2) Fees shall be set by the director pursuant to section 523  
5104.0113 of the Revised Code and shall be paid at the time of 524  
application for a license to operate a sick-child care center. 525  
Fees collected under this section shall be paid into the state 526  
treasury to the credit of the general revenue fund. 527

(D) When an application for a license is filed, the 528

director may investigate and inspect the sick-child care center 529  
to determine whether it satisfies the requirements of this 530  
section and sections 5104.16 and 5104.17 of the Revised Code and 531  
rules adopted pursuant to section 5104.0113 of the Revised Code. 532  
When the director is so satisfied, a license shall be issued as 533  
soon as practicable in such form and manner as prescribed by the 534  
director. Each sick-child care center license shall state the 535  
name of the licensee, the name of the administrator, and the 536  
address of the sick-child care center. The license shall be 537  
valid until it is surrendered to the director or revoked. 538

(E) The director may deny an application or revoke a 539  
license of a sick-child care center if it does not comply with 540  
the requirements of this section and sections 5104.16 and 541  
5104.17 of the Revised Code and rules adopted pursuant to 542  
section 5104.0113 of the Revised Code. 543

(F) If the director finds, after notice and hearing 544  
pursuant to Chapter 119. of the Revised Code, that any 545  
applicant, person, firm, organization, institution, or agency 546  
applying for licensure or licensed under this section is in 547  
violation of any provision of this section and sections 5104.16 548  
to 5104.18 of the Revised Code and rules adopted pursuant to 549  
section 5104.0113 of the Revised Code, the director may issue an 550  
order of denial to the applicant or an order of revocation to 551  
the sick-child care center revoking the license previously 552  
issued by the director. Upon the issuance of such an order, the 553  
person whose application is denied or whose license is revoked 554  
may appeal in accordance with section 119.12 of the Revised 555  
Code. 556

(G) The surrender of a sick-child care center license to 557  
the director or the withdrawal of an application for licensure 558

shall not prohibit the director from instituting any of the 559  
actions set forth in this section. 560

(H) The director, upon determining that the sick-child 561  
care center is operating without a license, shall notify the 562  
attorney general, the prosecuting attorney of the county in 563  
which the sick-child care center is located, or the city 564  
attorney, village solicitor, or other chief legal officer of the 565  
municipal corporation in which the sick-child care center is 566  
located, that the sick-child care center is operating without a 567  
license. Upon receipt of the notification, the attorney general, 568  
prosecuting attorney, city attorney, village solicitor, or other 569  
chief legal officer of a municipal corporation shall file a 570  
complaint in the court of common pleas of the county in which 571  
the sick-child care center is located requesting that the court 572  
grant an order enjoining the owner from operating the sick-child 573  
care center in violation of this section. The court shall grant 574  
such injunctive relief upon a showing that the respondent named 575  
in the complaint is operating a sick-child care center and is 576  
doing so without a license. 577

**Sec. 5104.16.** (A) A sick-child care center shall satisfy 578  
all of the following requirements: 579

(1) Have a physician, certified nurse practitioner, or 580  
registered nurse on the premises whenever children are in care; 581

(2) Have a licensed practical nurse or nurse aide on the 582  
premises whenever children are in care; 583

(3) Have a maximum number of children per staff member in 584  
each room of four to one; 585

(4) Have a maximum number of preschool-age children or 586  
school-age children receiving care in each room of two to one; 587

- (5) Provide a separate room for evaluating children before admission; 588  
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- (6) Provide a separate room for children recovering from illness who are no longer contagious; 590  
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- (7) If the sick-child care center admits children exhibiting symptoms of or diagnosed with chicken pox, provide a separate room for the care of those children that is ventilated separately from the rest of the sick-child care center; 592  
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- (8) Provide a separate room for children exhibiting symptoms of gastrointestinal illnesses; 596  
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- (9) For each room where child care is provided, include within the room or immediately adjacent to the room at least one toilet and one sink; 598  
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- (10) Have an area set aside for play, entertainment, education, and other activities; 601  
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- (11) Provide each child with a crib, bed, or cot, depending upon the child's age or physical size, and appropriate bed linens for the child's own use while at the sick-child care center; 603  
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- (12) Install electrical outlet covers or plates, childproof window locks and door latches, corner and edge bumpers for sharp edges, and nonslip, easily maintained floor surfaces; 607  
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- (13) Meet the guidelines for hand hygiene in health care settings developed by the federal centers for disease control and prevention; 611  
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- (14) Meet the standards regarding blood borne pathogens in health care settings developed by the federal occupational 614  
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safety and health administration; 616

(15) Have a referral network that provides for timely 617  
consultation with pediatric subspecialists and, when necessary, 618  
transfer of children to a hospital that offers more advanced 619  
pediatric care, including access to an air and ground 620  
transportation system that is responsive and appropriately 621  
equipped and staffed to care for children of all ages. 622

(B) A sick-child care center's health care policies and 623  
procedures shall be reviewed quarterly by a physician, certified 624  
nurse practitioner, or registered nurse. 625

(C) A sick-child care center shall not provide child care 626  
for any child who is not sick or does not have another short- 627  
term medical condition. Rooms used to provide child care for 628  
sick children shall not be used for any other child care purpose 629  
at any time. 630

**Sec. 5104.17.** (A) (1) Each sick-child care center shall 631  
develop a written policy governing the admission of children to 632  
receive child care. The admissions policy shall include a 633  
description of the types of illnesses and injuries for which a 634  
child may be admitted to the sick-child care center and the 635  
types for which a child may be excluded. 636

(2) At the following intervals, the admissions policy 637  
shall be reviewed and approved by a physician who is board- 638  
certified in family medicine or general pediatrics, as those 639  
designations are issued by a medical specialty certifying board 640  
recognized by the American board of medical specialties or 641  
American osteopathic association, in consultation with a 642  
physician, certified nurse practitioner, or registered nurse 643  
affiliated with the sick-child care center who performs or will 644

perform the evaluations described in division (B) of this 645  
section: 646

(a) At the time of initial application for licensure; 647

(b) After the first six months of operation; 648

(c) Annually, after the first six months of operation. 649

(3) An applicant for a license under section 5104.15 of 650  
the Revised Code shall include a report of the reviewing 651  
physician's findings and the approved admissions policy with the 652  
application for licensure. Subsequent reports of the reviewing 653  
physician shall be kept on file at the sick-child care center 654  
and made available for inspection. 655

(B) (1) A sick-child care center shall evaluate each child 656  
before admitting the child to the sick-child care center. A 657  
physician, certified nurse practitioner, or registered nurse 658  
affiliated with the sick-child care center shall perform the 659  
evaluation. An evaluation shall be performed for each day that 660  
the child seeks admission to the sick-child care center. The 661  
evaluation shall be based on all of the following: 662

(a) The child's symptoms; 663

(b) The likelihood of contagion; 664

(c) The health risks presented to other individuals; 665

(d) The sick-child care center's ability to provide 666  
adequate care; 667

(e) The sick-child care center's admissions policy. 668

(2) The sick-child care center shall conduct a preliminary 669  
evaluation over the telephone or internet before the caretaker 670  
parent brings the child to the sick-child care center. Based on 671

the preliminary evaluation, the physician, certified nurse practitioner, or registered nurse shall notify the caretaker parent whether the caretaker parent may bring the child to the sick-child care center for further evaluation. 672  
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(3) If the physician, certified nurse practitioner, or registered nurse determines that the caretaker parent may bring the child to the center and the child is brought to the center, a second evaluation shall be performed before admission. This evaluation shall include a physical examination of the child, an assessment of the child's symptoms, and the taking of a medical history. 676  
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(C) The decision of a physician, certified nurse practitioner, or registered nurse not to admit a child to the sick-child care center is final. 683  
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(D) Upon admission, the sick-child care center shall provide to the child's caretaker parent a summary of its policies and procedures, including its procedures for notifying the caretaker parent in the event of an emergency. 686  
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**Sec. 5104.99.** (A) Whoever violates section 5104.02 of the Revised Code shall be punished as follows: 690  
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(1) For each offense, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars multiplied by the number of children receiving child care at the child day-care center or type A family day-care home that either exceeds the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, exceeds the license capacity of the type A home. 692  
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(2) In addition to the fine specified in division (A) (1) 701  
of this section, all of the following apply: 702

(a) Except as provided in divisions (A) (2) (b), (c), and 703  
(d) of this section, the court shall order the offender to 704  
reduce the number of children to which it provides child care to 705  
a number that does not exceed either the number of children to 706  
which a type B family day-care home may provide child care or, 707  
if the offender is a licensed type A family day-care home that 708  
is operating as a child day-care center without being licensed 709  
as a center, the license capacity of the type A home. 710

(b) If the offender previously has been convicted of or 711  
pleaded guilty to one violation of section 5104.02 of the 712  
Revised Code, the court shall order the offender to cease the 713  
provision of child care to any person until it obtains a child 714  
day-care center license or a type A family day-care home 715  
license, as appropriate, under section 5104.03 of the Revised 716  
Code. 717

(c) If the offender previously has been convicted of or 718  
pleaded guilty to two violations of section 5104.02 of the 719  
Revised Code, the offender is guilty of a misdemeanor of the 720  
first degree, and the court shall order the offender to cease 721  
the provision of child care to any person until it obtains a 722  
child day-care center license or a type A family day-care home 723  
license, as appropriate, under section 5104.03 of the Revised 724  
Code. The court shall impose the fine specified in division (A) 725  
(1) of this section and may impose an additional fine provided 726  
that the total amount of the fines so imposed does not exceed 727  
the maximum fine authorized for a misdemeanor of the first 728  
degree under section 2929.28 of the Revised Code. 729

(d) If the offender previously has been convicted of or 730

pleaded guilty to three or more violations of section 5104.02 of 731  
the Revised Code, the offender is guilty of a felony of the 732  
fifth degree, and the court shall order the offender to cease 733  
the provision of child care to any person until it obtains a 734  
child day-care center license or a type A family day-care home 735  
license, as appropriate, under section 5104.03 of the Revised 736  
Code. The court shall impose the fine specified in division (A) 737  
(1) of this section and may impose an additional fine provided 738  
that the total amount of the fines so imposed does not exceed 739  
the maximum fine authorized for a felony of the fifth degree 740  
under section 2929.18 of the Revised Code. 741

(B) Whoever violates division (M) (4) of section 5104.013 742  
of the Revised Code is guilty of a misdemeanor of the first 743  
degree. If the offender is a licensee of a center, type A home, 744  
or licensed type B home, the conviction shall constitute grounds 745  
for denial or revocation of an application for licensure 746  
pursuant to section 5104.04 of the Revised Code. Except as 747  
otherwise provided in this division, the offense established 748  
under division (M) (4) of section 5104.013 of the Revised Code is 749  
a strict liability offense, and section 2901.20 of the Revised 750  
Code does not apply. If the offender is a person eighteen years 751  
of age or older residing in a type A home or licensed type B 752  
home or is an employee of a center, type A home, or licensed 753  
type B home and if the licensee had knowledge of, and acquiesced 754  
in, the commission of the offense, the conviction shall 755  
constitute grounds for denial or revocation of an application 756  
for licensure pursuant to section 5104.04 of the Revised Code. 757

(C) Whoever violates section 5104.09 of the Revised Code 758  
is guilty of a misdemeanor of the third degree. 759

(D) Whoever violates section 5104.15 of the Revised Code 760

shall be punished as follows: 761

(1) For each offense, the offender shall be fined not less 762  
than one hundred dollars nor more than five hundred dollars 763  
multiplied by the average number of children per day receiving 764  
child care at the sick-child care center. 765

(2) In addition to the fine specified in division (D) (1) 766  
of this section, all of the following apply: 767

(a) Except as provided in divisions (D) (2) (b), (c), and 768  
(d) of this section, the court shall order the offender to 769  
reduce the number of children to which it provides child care to 770  
a number that does not exceed the number of children to which a 771  
type B family day-care home may provide child care. 772

(b) If the offender previously has been convicted of or 773  
pleaded guilty to one violation of section 5104.15 of the 774  
Revised Code, the court shall order the offender to cease the 775  
provision of child care to any person until it obtains a sick- 776  
child care center license under section 5104.15 of the Revised 777  
Code. 778

(c) If the offender previously has been convicted of or 779  
pleaded guilty to two violations of section 5104.15 of the 780  
Revised Code, the offender is guilty of a misdemeanor of the 781  
first degree, and the court shall order the offender to cease 782  
the provision of child care to any person until it obtains a 783  
sick-child care center license under section 5104.15 of the 784  
Revised Code. The court shall impose the fine specified in 785  
division (D) (1) of this section and may impose an additional 786  
fine provided that the total amount of the fines so imposed does 787  
not exceed the maximum fine authorized for a misdemeanor of the 788  
first degree under section 2929.28 of the Revised Code. 789

(d) If the offender previously has been convicted of or 790  
pleaded guilty to three or more violations of section 5104.15 of 791  
the Revised Code, the offender is guilty of a felony of the 792  
fifth degree, and the court shall order the offender to cease 793  
the provision of child care to any person until it obtains a 794  
sick-child care center license under section 5104.15 of the 795  
Revised Code. The court shall impose the fine specified in 796  
division (D)(1) of this section and may impose an additional 797  
fine provided that the total amount of the fines so imposed does 798  
not exceed the maximum fine authorized for a felony of the fifth 799  
degree under section 2929.18 of the Revised Code. 800

**Section 2.** That existing sections 5104.01, 5104.015, and 801  
5104.99 of the Revised Code are hereby repealed. 802