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Representative LaTourette

Cosponsors: Representatives Arndt, Schaffer, Schuring, Anielski, Antonio, Ashford, Barnes, Blessing, Boggs, Boyd, Brenner, Brown, Carfagna, Celebrezze, Cera, Clyde, Craig, Cupp, Dean, DeVitis, Edwards, Faber, Fedor, Galonski, Gavarone, Ginter, Green, Greenspan, Hagan, Hambley, Hill, Holmes, Howse, Huffman, Hughes, Ingram, Kick, Landis, Lang, Leland, Lepore-Hagan, Lipps, Manning, McColley, Miller, O'Brien, Patterson, Patton, Pelanda, Perales, Ramos, Reece, Reineke, Rezabek, Riedel, Rogers, Ryan, Scherer, Seitz, Sheehy, Smith, K., Smith, R., Sprague, Stein, Sweeney, Sykes, Thompson, West, Young, Speaker Rosenberger

Senators Beagle, Burke, Coley, Eklund, Gardner, Hackett, Huffman, Kunze, Lehner, Manning, Oelslager, Peterson, Schiavoni, Tavares, Terhar, Thomas, Yuko

A BILL

To amend sections 3702.51, 3702.594, 3712.01, and 1
4731.054 and to enact sections 3701.36, 2
3701.361, 3701.362, 3712.10, and 3712.11 of the 3
Revised Code to create the Palliative Care and 4
Quality of Life Interdisciplinary Council and a 5
related education program, to require 6
identification of patients and residents who 7
could benefit from palliative care, to authorize 8
hospice care programs to provide palliative care 9
in their inpatient facilities or units to non- 10
hospice patients, to specify that Medicaid 11
coverage for palliative care is not being 12
expanded, to modify the pain management clinic 13
licensing law relative to certain palliative 14
care patients, and to authorize the Director of 15

Health to approve the transfer of certain 16
nursing home beds to a facility in a contiguous 17
county. 18

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

Section 1. That sections 3702.51, 3702.594, 3712.01, and 19
4731.054 be amended and sections 3701.36, 3701.361, 3701.362, 20
3712.10, and 3712.11 of the Revised Code be enacted to read as 21
follows: 22

Sec. 3701.36. (A) As used in this section and in sections 23
3701.361 and 3701.362 of the Revised Code, "palliative care" has 24
the same meaning as in section 3712.01 of the Revised Code. 25

(B) There is hereby created the palliative care and 26
quality of life interdisciplinary council. Subject to division 27
(C) of this section, members of the council shall be appointed 28
by the director of health and include individuals with expertise 29
in palliative care who represent the following professions or 30
constituencies: 31

(1) Physicians authorized under Chapter 4731. of the 32
Revised Code to practice medicine and surgery or osteopathic 33
medicine and surgery, including those who are board-certified in 34
pediatrics and those who are board-certified in psychiatry, as 35
those designations are issued by a medical specialty certifying 36
board recognized by the American board of medical specialties or 37
American osteopathic association; 38

(2) Physician assistants licensed under Chapter 4730. of 39
the Revised Code; 40

<u>(3) Advanced practice registered nurses licensed under</u>	41
<u>Chapter 4723. of the Revised Code who are designated as clinical</u>	42
<u>nurse specialists or certified nurse practitioners;</u>	43
<u>(4) Registered nurses and licensed practical nurses</u>	44
<u>licensed under Chapter 4723. of the Revised Code;</u>	45
<u>(5) Pharmacists licensed under Chapter 4729. of the</u>	46
<u>Revised Code;</u>	47
<u>(6) Psychologists licensed under Chapter 4732. of the</u>	48
<u>Revised Code;</u>	49
<u>(7) Licensed professional clinical counselors or licensed</u>	50
<u>professional counselors licensed under Chapter 4757. of the</u>	51
<u>Revised Code;</u>	52
<u>(8) Independent social workers or social workers licensed</u>	53
<u>under Chapter 4757. of the Revised Code;</u>	54
<u>(9) Marriage and family therapists licensed under Chapter</u>	55
<u>4757. of the Revised Code;</u>	56
<u>(10) Child life specialists;</u>	57
<u>(11) Clergy or spiritual advisers;</u>	58
<u>(12) Exercise physiologists;</u>	59
<u>(13) Health insurers;</u>	60
<u>(14) Patients;</u>	61
<u>(15) Family caregivers.</u>	62
<u>The council's membership also may include employees of</u>	63
<u>agencies of this state that administer programs pertaining to</u>	64
<u>palliative care or are otherwise concerned with the delivery of</u>	65
<u>palliative care in this state.</u>	66

(C) The council's membership shall include individuals who 67
have worked with various age groups, including children and the 68
elderly. The council's membership also shall include individuals 69
who have experience or expertise in various palliative care 70
delivery models, including acute care, long-term care, hospice 71
care, home health agency services, home-based care, and 72
spiritual care. At least two members shall be physicians who are 73
board-certified in hospice and palliative care by a medical 74
specialty certifying board recognized by the American board of 75
medical specialties or American osteopathic association. At 76
least one member shall be employed as an administrator of a 77
hospital or system of hospitals in this state or be a 78
professional specified in divisions (B) (1) to (10) or division 79
(B) (12) of this section who treats patients as an employee or 80
contractor of such a hospital or system of hospitals. 81

Not more than twenty individuals shall serve as members of 82
the council at any one time. Not more than two members shall be 83
employed by the same health care facility or provider or 84
practice at or for the same health care facility or provider. 85

In making appointments to the council, the director shall 86
seek to include as members individuals who represent underserved 87
areas of the state and to have all geographic areas of the state 88
represented. 89

(D) The director shall make initial appointments to the 90
council not later than ninety days after the effective date of 91
this section. Terms of office shall be three years. Each member 92
shall hold office from the date of appointment until the end of 93
the term for which the member was appointed. In the event of 94
death, removal, resignation, or incapacity of a council member, 95
the director shall appoint a successor who shall hold office for 96

the remainder of the term for which the successor's predecessor 97
was appointed. A member shall continue in office subsequent to 98
the expiration date of the member's term until the member's 99
successor takes office or until a period of sixty days has 100
elapsed, whichever occurs first. 101

The council shall meet at the call of the director, but 102
not less than twice annually. The council shall select annually 103
from among its members a chairperson and vice-chairperson, whose 104
duties shall be established by the council. 105

Each member shall serve without compensation, except to 106
the extent that serving on the council is considered part of the 107
member's regular employment duties. 108

(E) The council shall do all of the following: 109

(1) Consult with and advise the director on matters 110
related to the establishment, maintenance, operation, and 111
evaluation of palliative care initiatives in this state; 112

(2) Consult with the department of health for purposes of 113
its implementation of section 3701.361 of the Revised Code; 114

(3) Identify national organizations that have established 115
standards of practice and best practice models for palliative 116
care; 117

(4) Identify initiatives established at the national and 118
state levels aimed at integrating palliative care into the 119
health care system and enhancing the use and development of 120
palliative care; 121

(5) Establish guidelines for health care facilities and 122
providers to use under section 3701.362 of the Revised Code in 123
identifying patients and residents who could benefit from 124

palliative care; 125

(6) On or before December 31 of each year, prepare and 126
submit to the governor, general assembly, director of health, 127
director of aging, superintendent of insurance, medicaid 128
director, and executive director of the office of health 129
transformation a report of recommendations for improving the 130
provision of palliative care in this state. 131

The council shall submit the report to the general 132
assembly in accordance with section 101.68 of the Revised Code. 133

(F) The department of health shall provide to the council 134
the administrative support necessary to execute its duties. At 135
the request of the council, the department shall examine 136
potential sources of funding to assist with any duties described 137
in this section or sections 3701.361 and 3701.362 of the Revised 138
Code. 139

(G) The council is not subject to sections 101.82 to 140
101.87 of the Revised Code. 141

Sec. 3701.361. The palliative care consumer and 142
professional information and education program is hereby 143
established in the department of health. The purpose of the 144
program is to maximize the effectiveness of palliative care 145
initiatives in this state by ensuring that comprehensive and 146
accurate information and education on palliative care is 147
available to health care facilities, other health care 148
providers, and the public. 149

The department shall publish on its internet web site 150
information on palliative care, including information on 151
continuing education opportunities for health care 152
professionals; information about palliative care delivery in a 153

patient's home and in primary, secondary, and tertiary 154
environments; best practices for palliative care delivery; and 155
consumer educational materials and referral information on 156
palliative care, including hospice. The department may develop 157
and implement other initiatives regarding palliative care and 158
education as the department considers appropriate. 159

In implementing this section, the department shall consult 160
with the palliative care and quality of life interdisciplinary 161
council created under section 3701.36 of the Revised Code. 162

Sec. 3701.362. (A) Each of the health care facilities and 163
providers identified in division (B) of this section shall do 164
both of the following: 165

(1) Establish a system for identifying patients or 166
residents who could benefit from palliative care; 167

(2) Provide information on palliative care to patients and 168
residents who could benefit from palliative care. 169

(B) Division (A) of this section applies to all of the 170
following: 171

(1) A hospital registered under section 3701.07 of the 172
Revised Code; 173

(2) An ambulatory surgical facility, as defined in section 174
3702.30 of the Revised Code; 175

(3) A nursing home, residential care facility, county 176
home, or district home, as defined in section 3721.01 of the 177
Revised Code; 178

(4) A veterans' home operated under Chapter 5907. of the 179
Revised Code; 180

<u>(5) A hospice care program or pediatric respite care</u>	181
<u>program, as defined in section 3712.01 of the Revised Code;</u>	182
<u>(6) A home health agency, as defined in section 3701.881</u>	183
<u>of the Revised Code.</u>	184
Sec. 3702.51. As used in sections 3702.51 to 3702.62 of	185
the Revised Code:	186
(A) "Applicant" means any person that submits an	187
application for a certificate of need and who is designated in	188
the application as the applicant.	189
(B) "Person" means any individual, corporation, business	190
trust, estate, firm, partnership, association, joint stock	191
company, insurance company, government unit, or other entity.	192
(C) "Certificate of need" means a written approval granted	193
by the director of health to an applicant to authorize	194
conducting a reviewable activity.	195
(D) "Service area" means the current and projected primary	196
and secondary service areas to which the long-term care facility	197
is, or will be, providing long-term care services.	198
(E) "Primary service area" means the geographic region,	199
usually comprised of the Ohio zip code in which the long-term	200
care facility is located and contiguous zip codes, from which	201
approximately seventy-five to eighty per cent of the facility's	202
residents currently originate or are expected to originate.	203
(F) "Secondary service area" means the geographic region,	204
usually comprised of Ohio zip codes not included in the primary	205
service area, excluding isolated exceptions, from which the	206
facility's remaining residents currently originate or are	207
expected to originate.	208

(G) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (I) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701. or 4123. of the Revised Code, the medicaid program, or any self-insurance plan.

(H) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(I) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(J) "Existing long-term care facility" means either of the following:

(1) A long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, is staffed and equipped to provide long-term care services, and is actively providing long-term care services;

(2) A long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified under Title XVIII or Title XIX of the "Social

Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, 238
or that has beds registered under section 3701.07 of the Revised 239
Code as skilled nursing beds or long-term care beds and has 240
provided long-term care services for at least three hundred 241
sixty-five consecutive days within the twenty-four months 242
immediately preceding the date a certificate of need application 243
is filed with the director of health. 244

(K) "State" means the state of Ohio, including, but not 245
limited to, the general assembly, the supreme court, the offices 246
of all elected state officers, and all departments, boards, 247
offices, commissions, agencies, institutions, and other 248
instrumentalities of the state of Ohio. "State" does not include 249
political subdivisions. 250

(L) "Political subdivision" means a municipal corporation, 251
township, county, school district, and all other bodies 252
corporate and politic responsible for governmental activities 253
only in geographic areas smaller than that of the state to which 254
the sovereign immunity of the state attaches. 255

(M) "Affected person" means: 256

(1) An applicant for a certificate of need, including an 257
applicant whose application was reviewed comparatively with the 258
application in question; 259

(2) The person that requested the reviewability ruling in 260
question; 261

(3) Any person that resides or regularly uses long-term 262
care facilities within the service area served or to be served 263
by the long-term care services that would be provided under the 264
certificate of need or reviewability ruling in question; 265

(4) Any long-term care facility that is located in the 266

service area where the long-term care services would be provided 267
under the certificate of need or reviewability ruling in 268
question; 269

(5) Third-party payers that reimburse long-term care 270
facilities for services in the service area where the long-term 271
care services would be provided under the certificate of need or 272
reviewability ruling in question. 273

(N) "Long-term care facility" means, except as provided in 274
section 3702.594 of the Revised Code, any of the following: 275

(1) A nursing home licensed under section 3721.02 of the 276
Revised Code or by a political subdivision certified under 277
section 3721.09 of the Revised Code; 278

(2) The portion of any facility, including a county home 279
or county nursing home, that is certified as a skilled nursing 280
facility or a nursing facility under Title XVIII or XIX of the 281
"Social Security Act"; 282

(3) The portion of any hospital that contains beds 283
registered under section 3701.07 of the Revised Code as skilled 284
nursing beds or long-term care beds. 285

(O) "Long-term care bed" or "bed" means a bed that is 286
categorized as one of the following: 287

(1) A bed that is located in a facility that is a nursing 288
home licensed under section 3721.02 of the Revised Code or a 289
facility licensed by a political subdivision certified under 290
section 3721.09 of the Revised Code and is included in the 291
authorized maximum licensed capacity of the facility; 292

(2) A bed that is located in the portion of any facility, 293
including a county home or county nursing home, that is 294

certified as a skilled nursing facility under the medicare 295
program or a nursing facility under the medicaid program and is 296
included in the authorized maximum certified capacity of that 297
portion of the facility; 298

(3) A bed that is registered under section 3701.07 of the 299
Revised Code as a skilled nursing bed, a long-term care bed, or 300
a special skilled nursing bed; 301

(4) A bed in a county home or county nursing home that has 302
been certified under section 5155.38 of the Revised Code as 303
having been in operation on July 1, 1993, and is eligible for 304
licensure as a nursing home bed; 305

(5) A bed held as an approved bed under a certificate of 306
need approved by the director. 307

A bed cannot simultaneously be both a bed described in 308
division (O) (1), (2), (3), or (4) of this section and a bed 309
described in division (O) (5) of this section. 310

(P) "Reviewability ruling" means a ruling issued by the 311
director of health under division (A) of section 3702.52 of the 312
Revised Code as to whether a particular proposed project is or 313
is not a reviewable activity. 314

(Q) "County nursing home" has the same meaning as in 315
section 5155.31 of the Revised Code. 316

(R) "Principal participant" means both of the following: 317

(1) A person who has an ownership or controlling interest 318
of at least five per cent in an applicant, in a long-term care 319
facility that is the subject of an application for a certificate 320
of need, or in the owner or operator of the applicant or such a 321
facility; 322

(2) An officer, director, trustee, or general partner of 323
an applicant, of a long-term care facility that is the subject 324
of an application for a certificate of need, or of the owner or 325
operator of the applicant or such a facility. 326

(S) "Actual harm but not immediate jeopardy deficiency" 327
means a deficiency that, under 42 C.F.R. 488.404, either 328
constitutes a pattern of deficiencies resulting in actual harm 329
that is not immediate jeopardy or represents widespread 330
deficiencies resulting in actual harm that is not immediate 331
jeopardy. 332

(T) "Immediate jeopardy deficiency" means a deficiency 333
that, under 42 C.F.R. 488.404, either constitutes a pattern of 334
deficiencies resulting in immediate jeopardy to resident health 335
or safety or represents widespread deficiencies resulting in 336
immediate jeopardy to resident health or safety. 337

(U) "Existing bed" or "existing long-term care bed" means 338
a bed from an existing long-term care facility, a bed described 339
in division (O) (5) of this section, or a bed correctly reported 340
as a long-term care bed pursuant to section 5155.38 of the 341
Revised Code. 342

Sec. 3702.594. (A) The ~~As~~ used in this section, "long-term 343
care facility" means either of the following: 344

(1) A nursing home licensed under section 3721.02 of the 345
Revised Code or by a political subdivision certified under 346
section 3721.09 of the Revised Code; 347

(2) The portion of any facility, including a county home 348
or county nursing home, that is certified as a skilled nursing 349
facility under the medicare program, Title XVIII of the "Social 350
Security Act," 42 U.S.C. 1395, as amended, or as a nursing 351

facility under the medicaid program, Title XIX of the "Social Security Act," 42 U.S.C. 1396, as amended. 352
353

(B) Subject to division (C) of this section, the director 354
of health shall accept, for review under section 3702.52 of the 355
Revised Code, certificate of need applications for an increase 356
in beds in an existing ~~nursing home~~ long-term care facility if 357
all of the following conditions are met: 358

(1) The proposed increase is attributable solely to a 359
relocation of ~~licensed nursing home~~ long-term care beds from an 360
existing ~~nursing home~~ long-term care facility to another 361
existing ~~nursing home~~ long-term care facility located in a 362
county that is contiguous to the county from which the beds are 363
to be relocated; 364

(2) Not more than a total of thirty ~~nursing home~~ beds are 365
proposed for relocation to the same existing ~~nursing home~~ long- 366
term care facility, regardless of the number of applications 367
filed. ~~Once the cumulative total of beds relocated under this-~~ 368
~~section to a nursing home reaches thirty, no further-~~ 369
~~applications under this section will be accepted until the~~ 370
~~period of monitoring specified in division (E) of section-~~ 371
~~3702.52 of the Revised Code of the most recent reviewable-~~ 372
~~activity implemented under this section has expired;~~ 373

(3) After the proposed relocation, there will be existing 374
~~nursing home~~ beds remaining in the county from which the beds 375
are relocated; 376

~~(4) The beds are proposed to be licensed as nursing home~~ 377
~~beds under Chapter 3721. of the Revised Code.~~ 378

~~(B)~~ (C) The director shall accept applications described 379
in division ~~(A)~~ (B) of this section at any time, except that 380

once the cumulative total of beds relocated under this section 381
reaches thirty, no further applications shall be accepted until 382
the period of monitoring specified in division (E) of section 383
3702.52 of Revised Code of the most recent reviewable activity 384
implemented under this section has expired. 385

Sec. 3712.01. As used in this chapter: 386

(A) "Hospice care program" means a coordinated program of 387
home, outpatient, and inpatient care and services that is 388
operated by a person or public agency and that provides the 389
following care and services to hospice patients, including 390
services as indicated below to hospice patients' families, 391
through a medically directed interdisciplinary team, under 392
interdisciplinary plans of care established pursuant to section 393
3712.06 of the Revised Code, in order to meet the physical, 394
psychological, social, spiritual, and other special needs that 395
are experienced during the final stages of illness, dying, and 396
bereavement: 397

(1) Nursing care by or under the supervision of a 398
registered nurse; 399

(2) Physical, occupational, or speech or language therapy, 400
unless waived by the department of health pursuant to rules 401
adopted under division (A) of section 3712.03 of the Revised 402
Code; 403

(3) Medical social services by a social worker under the 404
direction of a physician; 405

(4) Services of a home health aide; 406

(5) Medical supplies, including drugs and biologicals, and 407
the use of medical appliances; 408

(6) Physician's services;	409
(7) Short-term inpatient care, including both palliative and respite care and procedures;	410 411
(8) Counseling for hospice patients and hospice patients' families;	412 413
(9) Services of volunteers under the direction of the provider of the hospice care program;	414 415
(10) Bereavement services for hospice patients' families.	416
"Hospice care program" does not include a pediatric respite care program.	417 418
(B) "Hospice patient" means a patient, other than a pediatric respite care patient, who has been diagnosed as terminally ill, has an anticipated life expectancy of six months or less, and has voluntarily requested and is receiving care from a person or public agency licensed under this chapter to provide a hospice care program.	419 420 421 422 423 424
(C) "Hospice patient's family" means a hospice patient's immediate family members, including a spouse, brother, sister, child, or parent, and any other relative or individual who has significant personal ties to the patient and who is designated as a member of the patient's family by mutual agreement of the patient, the relative or individual, and the patient's interdisciplinary team.	425 426 427 428 429 430 431
(D) "Interdisciplinary team" means a working unit composed of professional and lay persons that includes at least a physician, a registered nurse, a social worker, a member of the clergy or a counselor, and a volunteer.	432 433 434 435
(E) "Palliative care" means treatment <u>specialized care</u> for	436

a patient of any age who has been diagnosed with a serious or 437
~~life-threatening illness directed at controlling pain, relieving~~ 438
~~other symptoms, and enhancing the quality of life of the patient~~ 439
~~and the patient's family rather than treatment for the purpose~~ 440
~~of cure that is provided at any stage of the illness by an~~ 441
interdisciplinary team working in consultation with other health 442
care professionals, including those who may be seeking to cure 443
the illness, and that aims to do all of the following: 444

(1) Relieve the symptoms, stress, and suffering resulting 445
from the illness; 446

(2) Improve the quality of life of the patient and the 447
patient's family; 448

(3) Address the patient's physical, emotional, social, and 449
spiritual needs; 450

(4) Facilitate patient autonomy, access to information, 451
and medical decision making. 452

~~Nothing in this section shall be interpreted to mean that~~ 453
~~palliative care can be provided only as a component of a hospice~~ 454
~~care program or pediatric respite care program.~~ 455

(F) "Physician" means a person authorized under Chapter 456
4731. of the Revised Code to practice medicine and surgery or 457
osteopathic medicine and surgery. 458

(G) "Attending physician" means the physician identified 459
by the hospice patient, pediatric respite care patient, hospice 460
patient's family, or pediatric respite care patient's family as 461
having primary responsibility for the medical care of the 462
hospice patient or pediatric respite care patient. 463

(H) "Registered nurse" means a person registered under 464

Chapter 4723. of the Revised Code to practice professional nursing.	465 466
(I) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	467 468 469
(J) "Pediatric respite care program" means a program operated by a person or public agency that provides inpatient respite care and related services, including all of the following services, only to pediatric respite care patients and, as indicated below, pediatric respite care patients' families, in order to meet the physical, psychological, social, spiritual, and other special needs that are experienced during or leading up to the final stages of illness, dying, and bereavement:	470 471 472 473 474 475 476 477
(1) Short-term inpatient care, including both palliative and respite care and procedures;	478 479
(2) Nursing care by or under the supervision of a registered nurse;	480 481
(3) Physician's services;	482
(4) Medical social services by a social worker under the direction of a physician;	483 484
(5) Medical supplies, including drugs and biologicals, and the use of medical appliances;	485 486
(6) Counseling for pediatric respite care patients and pediatric respite care patients' families;	487 488
(7) Bereavement services for respite care patients' families.	489 490
"Pediatric respite care program" does not include a	491

hospice care program. 492

(K) "Pediatric respite care patient" means a patient, 493
other than a hospice patient, who is less than twenty-seven 494
years of age and to whom all of the following conditions apply: 495

(1) The patient has been diagnosed with a disease or 496
condition that is life-threatening and is expected to shorten 497
the life expectancy that would have applied to the patient 498
absent the patient's diagnosis, regardless of whether the 499
patient is terminally ill. 500

(2) The diagnosis described in division (K) (1) of this 501
section occurred while the patient was less than eighteen years 502
of age. 503

(3) The patient has voluntarily requested and is receiving 504
care from a person or public agency licensed under this chapter 505
to provide a pediatric respite care program. 506

(L) "Pediatric respite care patient's family" means a 507
pediatric respite care patient's family members, including a 508
spouse, brother, sister, child, or parent, and any other 509
relative or individual who has significant personal ties to the 510
patient and who is designated as a member of the patient's 511
family by mutual agreement of the patient, the relative or 512
individual, and the patient's interdisciplinary team. 513

Sec. 3712.10. (A) In addition to providing palliative care 514
to hospice patients, a hospice care program may provide 515
palliative care in an inpatient facility or unit operated by the 516
program to patients who are not hospice patients, but only if 517
the care is provided to each patient on a short-term basis and 518
the care is medically necessary for the patient receiving the 519
care. 520

Notwithstanding any provision of this chapter describing a hospice care program as being authorized to provide care and services only to hospice patients, the provision of palliative care under this division is considered a component of the activities authorized by the hospice care program's license.

(B) The director of health shall adopt rules governing the provision of palliative care under division (A) of this section to patients who are not hospice patients. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(C) Nothing in this chapter precludes an entity that holds a license for a hospice care program, including a program that exercises the authority described in division (A) of this section, from owning, being owned by, or otherwise being affiliated with an entity that provides palliative care to patients who are not hospice patients.

Sec. 3712.11. Nothing in this chapter shall be interpreted as meaning that palliative care may be provided only by or as a component of a hospice care program or pediatric respite care program.

Sec. 4731.054. (A) As used in this section:

(1) "Chronic pain" has the same meaning as in section 4731.052 of the Revised Code.

(2) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(3) "Hospice care program" means a program licensed under Chapter 3712. of the Revised Code.

(4) "Hospital" means a hospital registered with the department of health under section 3701.07 of the Revised Code.

~~(4)~~(5) "Owner" means each person included on the list 549
maintained under division (B) (6) of section 4729.552 of the 550
Revised Code. 551

~~(5)~~(6) (a) "Pain management clinic" means a facility to 552
which both of the following apply: 553

(i) The majority of patients of the prescribers at the 554
facility are provided treatment for chronic pain through the use 555
of controlled substances, tramadol, or other drugs specified in 556
rules adopted under this section; 557

(ii) The facility meets any other identifying criteria 558
established in rules adopted under this section. 559

(b) "Pain management clinic" does not include any of the 560
following: 561

(i) A hospital; 562

(ii) A facility operated by a hospital for the treatment 563
of chronic pain; 564

(iii) A physician practice owned or controlled, in whole 565
or in part, by a hospital or by an entity that owns or controls, 566
in whole or in part, one or more hospitals; 567

(iv) A school, college, university, or other educational 568
institution or program to the extent that it provides 569
instruction to individuals preparing to practice as physicians, 570
podiatrists, dentists, nurses, physician assistants, 571
optometrists, or veterinarians or any affiliated facility to the 572
extent that it participates in the provision of that 573
instruction; 574

(v) A hospice care program licensed under Chapter 3712. of 575
the Revised Code with respect to its hospice patients; 576

<u>(vi) A hospice care program with respect to its provision</u>	577
<u>of palliative care in an inpatient facility or unit to patients</u>	578
<u>who are not hospice patients, as authorized by section 3712.10</u>	579
<u>of the Revised Code, but only in the case of those palliative</u>	580
<u>care patients who have a life-threatening illness;</u>	581
<u>(vii) A palliative care inpatient facility or unit that</u>	582
<u>does not admit hospice patients and is not otherwise excluded as</u>	583
<u>a pain management clinic under division (A) (6) (b) of this</u>	584
<u>section, but only in the case of those palliative care patients</u>	585
<u>who have a life-threatening illness;</u>	586
(vi) (viii) An ambulatory surgical facility licensed under	587
section 3702.30 of the Revised Code;	588
(vii) (ix) An interdisciplinary pain rehabilitation	589
program with three-year accreditation from the commission on	590
accreditation of rehabilitation facilities;	591
(viii) (x) A nursing home licensed under section 3721.02	592
of the Revised Code or by a political subdivision certified	593
under section 3721.09 of the Revised Code;	594
(ix) (xi) A facility conducting only clinical research	595
that may use controlled substances in studies approved by a	596
hospital-based institutional review board or an institutional	597
review board accredited by the association for the accreditation	598
of human research protection programs.	599
(6) (7) "Physician" means an individual authorized under	600
this chapter to practice medicine and surgery or osteopathic	601
medicine and surgery.	602
(7) (8) "Prescriber" has the same meaning as in section	603
4729.01 of the Revised Code.	604

(B) Each owner shall supervise, control, and direct the activities of each individual, including an employee, volunteer, or individual under contract, who provides treatment of chronic pain at the pain management clinic or is associated with the provision of that treatment. The supervision, control, and direction shall be provided in accordance with rules adopted under this section.

(C) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Standards and procedures for the operation of a pain management clinic;

(2) Standards and procedures to be followed by a physician who provides care at a pain management clinic;

(3) For purposes of division (A) (5) (a) (i) of this section, the other drugs used to treat chronic pain that identify a facility as a pain management clinic;

(4) For purposes of division (A) (5) (a) (ii) of this section, the other criteria that identify a facility as a pain management clinic;

(5) For purposes of division (B) of this section, standards and procedures to be followed by an owner in providing supervision, direction, and control of individuals at a pain management clinic.

(D) The board may impose a fine of not more than twenty thousand dollars on a physician who fails to comply with rules adopted under this section. The fine may be in addition to or in lieu of any other action that may be taken under section 4731.22 of the Revised Code. The board shall deposit any amounts

received under this division in accordance with section 4731.24 634
of the Revised Code. 635

(E) (1) The board may inspect either of the following as 636
the board determines necessary to ensure compliance with this 637
chapter and any rules adopted under it regarding pain management 638
clinics: 639

(a) A pain management clinic; 640

(b) A facility or physician practice that the board 641
suspects is operating as a pain management clinic in violation 642
of this chapter. 643

(2) The board's inspection shall be conducted in 644
accordance with division (F) of section 4731.22 of the Revised 645
Code. 646

(3) Before conducting an on-site inspection, the board 647
shall provide notice to the owner or other person in charge of 648
the facility or physician practice, except that the board is not 649
required to provide the notice if, in the judgment of the board, 650
the notice would jeopardize an investigation being conducted by 651
the board. 652

Section 2. That existing sections 3702.51, 3702.594, 653
3712.01, and 4731.054 of the Revised Code are hereby repealed. 654

Section 3. As used in this section, "palliative care" has 655
the same meaning as in section 3712.01 of the Revised Code, as 656
amended by this act. 657

Nothing in this act shall be construed as requiring the 658
Medicaid program to cover palliative care or any other health 659
care service that constitutes palliative care, regardless of how 660
the service is designated by a Medicaid provider or the Medicaid 661

program, in an amount, duration, or scope that exceeds the 662
coverage that is included in the Medicaid program as it exists 663
on the effective date of this act. 664