

**As Introduced**

**132nd General Assembly  
Regular Session  
2017-2018**

**H. B. No. 77**

**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 19  
to meeting the requirements to be a child-care staff member or 20  
administrator that does both of the following: 21

(1) Uses a framework approved by the director of job and 22  
family services to document formal education, training, 23  
experience, and specialized credentials and certifications; 24

(2) Allows the child-care staff member or administrator to 25  
achieve a designation as an early childhood professional level 26  
one, two, three, four, five, or six. 27

(E) "Caretaker parent" means the father or mother of a 28  
child whose presence in the home is needed as the caretaker of 29  
the child, a person who has legal custody of a child and whose 30  
presence in the home is needed as the caretaker of the child, a 31  
guardian of a child whose presence in the home is needed as the 32  
caretaker of the child, and any other person who stands in loco 33  
parentis with respect to the child and whose presence in the 34  
home is needed as the caretaker of the child. 35

(F) "Chartered nonpublic school" means a school that meets 36  
standards for nonpublic schools prescribed by the state board of 37  
education for nonpublic schools pursuant to section 3301.07 of 38  
the Revised Code. 39

(G) "Child" includes an infant, toddler, preschool-age 40  
child, or school-age child. 41

(H) "Child care block grant act" means the "Child Care and 42  
Development Block Grant Act of 1990," established in section 43  
5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 44  
Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended. 45

(I) "Child day camp" means a program in which only school- 46  
age children attend or participate, that operates for no more 47

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, or government entity. 233

(FF) "Parent cooperative child day-care center," "parent 234  
cooperative center," "parent cooperative type A family day-care 235  
home," and "parent cooperative type A home" mean a corporation 236  
or association organized for providing educational services to 237  
the children of members of the corporation or association, 238  
without gain to the corporation or association as an entity, in 239  
which the services of the corporation or association are 240  
provided only to children of the members of the corporation or 241  
association, ownership and control of the corporation or 242  
association rests solely with the members of the corporation or 243  
association, and at least one parent-member of the corporation 244  
or association is on the premises of the center or type A home 245  
during its hours of operation. 246

(GG) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child care or publicly funded child care for not more than four hours a day for any child or not more than fifteen consecutive weeks per year, regardless of the number of hours per day.	247 248 249 250 251 252
(HH) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.	253 254 255 256
(II) "Preschool-age child" means a child who is three years old or older but is not a school-age child.	257 258
(JJ) "Protective child care" means publicly funded child care for the direct care and protection of a child to whom either of the following applies:	259 260 261
(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;	262 263 264 265 266 267
(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are otherwise ineligible for publicly funded child care.	268 269 270 271 272
(KK) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool-age children, and school-age children under age thirteen during any part of the	273 274 275

twenty-four-hour day by persons other than their caretaker 276  
parents for remuneration wholly or in part with federal or state 277  
funds, including funds available under the child care block 278  
grant act, Title IV-A, and Title XX, distributed by the 279  
department of job and family services. 280

(LL) "Religious activities" means any of the following: 281  
worship or other religious services; religious instruction; 282  
Sunday school classes or other religious classes conducted 283  
during or prior to worship or other religious services; youth or 284  
adult fellowship activities; choir or other musical group 285  
practices or programs; meals; festivals; or meetings conducted 286  
by an organized religious group. 287

(MM) "School-age child" means a child who is enrolled in 288  
or is eligible to be enrolled in a grade of kindergarten or 289  
above but is less than fifteen years old. 290

(NN) "School-age child care center" and "school-age child 291  
type A home" mean a center or type A home that provides child 292  
care for school-age children only and that does either or both 293  
of the following: 294

(1) Operates only during that part of the day that 295  
immediately precedes or follows the public school day of the 296  
school district in which the center or type A home is located; 297

(2) Operates only when the public schools in the school 298  
district in which the center or type A home is located are not 299  
open for instruction with pupils in attendance. 300

(OO) "Sick-child care center" means a place that provides 301  
child care, including administering to the needs of school-age 302  
children during school hours, for children with short-term 303  
illnesses or other medical conditions on a temporary, irregular 304

basis. A sick-child care center does not include a place located 305  
in and operated by a hospital, as defined in section 3727.01 of 306  
the Revised Code. 307

(PP) "Serious risk noncompliance" means a licensure or 308  
certification rule violation that leads to a great risk of harm 309  
to, or death of, a child, and is observable, not inferable. 310

~~(PP)~~(QQ) "State median income" means the state median 311  
income calculated by the department of development pursuant to 312  
division (A)(1)(g) of section 5709.61 of the Revised Code. 313

~~(QQ)~~(RR) "Title IV-A" means Title IV-A of the "Social 314  
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 315

~~(RR)~~(SS) "Title XX" means Title XX of the "Social 316  
Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 317

~~(SS)~~(TT) "Toddler" means a child who is at least eighteen 318  
months of age but less than three years of age. 319

~~(TT)~~(UU) "Type A family day-care home" and "type A home" 320  
mean a permanent residence of the administrator in which child 321  
care or publicly funded child care is provided for seven to 322  
twelve children at one time or a permanent residence of the 323  
administrator in which child care is provided for four to twelve 324  
children at one time if four or more children at one time are 325  
under two years of age. In counting children for the purposes of 326  
this division, any children under six years of age who are 327  
related to a licensee, administrator, or employee and who are on 328  
the premises of the type A home shall be counted. "Type A family 329  
day-care home" and "type A home" do not include any child day 330  
camp. 331

~~(UU)~~(VV) "Type B family day-care home" and "type B home" 332  
mean a permanent residence of the provider in which child care 333

is provided for one to six children at one time and in which no 334  
more than three children are under two years of age at one time. 335  
In counting children for the purposes of this division, any 336  
children under six years of age who are related to the provider 337  
and who are on the premises of the type B home shall be counted. 338  
"Type B family day-care home" and "type B home" do not include 339  
any child day camp. 340

**Sec. 5104.015.** The director of job and family services 341  
shall adopt rules in accordance with Chapter 119. of the Revised 342  
Code governing the operation of child day-care centers, 343  
including parent cooperative centers, part-time centers, drop-in 344  
centers, and school-age child care centers. The rules shall 345  
reflect the various forms of child care and the needs of 346  
children receiving child care or publicly funded child care and 347  
shall include specific rules for school-age child care centers 348  
that are developed in consultation with the department of 349  
education. The rules shall not require an existing school 350  
facility that is in compliance with applicable building codes to 351  
undergo an additional building code inspection or to have 352  
structural modifications. The rules shall include the following: 353

(A) Submission of a site plan and descriptive plan of 354  
operation to demonstrate how the center proposes to meet the 355  
requirements of this chapter and rules adopted pursuant to this 356  
chapter for the initial license application; 357

(B) Standards for ensuring that the physical surroundings 358  
of the center are safe and sanitary including the physical 359  
environment, the physical plant, and the equipment of the 360  
center; 361

(C) Standards for the supervision, care, and discipline of 362  
children receiving child care or publicly funded child care in 363

the center;	364
(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.	365 366 367 368 369 370 371 372 373 374
(E) Admissions policies and procedures;	375
(F) Health care policies and procedures, including procedures for <del>the isolation of children</del> <u>isolating a child with a communicable disease</u> and <u>discharging that child to a parent or guardian or to a person or sick-child care center designated by the parent or guardian;</u>	376 377 378 379 380
(G) First aid and emergency procedures;	381
(H) Procedures for discipline and supervision of children;	382
(I) Standards for the provision of nutritious meals and snacks;	383 384
(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;	385 386 387
(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;	388 389
(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children,	390 391

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

who are handicapped or who require treatment for health 419  
conditions while the child is receiving child care or publicly 420  
funded child care in the center; 421

(W) A procedure for reporting of injuries of children that 422  
occur at the center; 423

~~(X) Standards for licensing child day care centers for 424  
children with short term illnesses and other temporary medical- 425  
conditions; 426~~

~~(Y) Minimum requirements for instructional time for child 427  
day-care centers rated through the step up to quality program 428  
established pursuant to section 5104.29 of the Revised Code; 429~~

~~(Z) (Y) Any other procedures and standards necessary to 430  
carry out the provisions of this chapter regarding child day- 431  
care centers. 432~~

Sec. 5104.0113. The director of job and family services, 433  
in consultation with the director of health, shall adopt rules 434  
in accordance with Chapter 119. of the Revised Code governing 435  
the operation of sick-child care centers. The rules shall be 436  
consistent with sections 5104.15 to 5104.17 of the Revised Code 437  
and reflect the needs of children with short-term illnesses and 438  
other temporary medical conditions. The rules shall include all 439  
of the following: 440

(A) Standards for ensuring that the physical environment 441  
and equipment of the sick-child care center are safe and 442  
sanitary; 443

(B) Standards for the supervision, care, and discipline of 444  
children receiving child care in the center; 445

(C) Standards for qualifications and screening of staff 446



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

<u>referrals or transfers to pediatric specialists or facilities;</u>	474
<u>(H) Standards for record keeping;</u>	475
<u>(I) Procedures for issuing, denying, and revoking a</u>	476
<u>license that are not otherwise provided for in Chapter 119. of</u>	477
<u>the Revised Code;</u>	478
<u>(J) Inspection procedures;</u>	479
<u>(K) Procedures and standards for setting initial license</u>	480
<u>application fees;</u>	481
<u>(L) Procedures for receiving, recording, and responding to</u>	482
<u>complaints about sick-child care centers;</u>	483
<u>(M) Any other standards and procedures necessary to</u>	484
<u>implement sections 5104.15 to 5104.17 of the Revised Code.</u>	485
<u><b>Sec. 5104.15.</b> (A) As used in this section and sections</u>	486
<u>5104.16 and 5104.17 of the Revised Code:</u>	487
<u>(1) "Certified nurse practitioner," "licensed practical</u>	488
<u>nurse," and "registered nurse" have the same meanings as in</u>	489
<u>section 4723.01 of the Revised Code.</u>	490
<u>(2) "Nurse aide" has the same meaning as in section</u>	491
<u>3721.21 of the Revised Code.</u>	492
<u>(3) "Physician" means an individual authorized under</u>	493
<u>Chapter 4731. of the Revised Code to practice medicine and</u>	494
<u>surgery or osteopathic medicine and surgery.</u>	495
<u>(B) The director of job and family services is responsible</u>	496
<u>for licensing sick-child care centers. No person, firm,</u>	497
<u>organization, institution, or agency shall operate, establish,</u>	498
<u>manage, conduct, or maintain a sick-child care center without a</u>	499
<u>license issued under this section. The current license shall be</u>	500

posted in a conspicuous place that is accessible to parents, 501  
custodians, or guardians and employees of the sick-child care 502  
center at all times when it is in operation. 503

(C) (1) Any person, firm, organization, institution, or 504  
agency seeking to establish a sick-child care center shall apply 505  
for a license to the director of job and family services on such 506  
form as the director prescribes. The application shall include 507  
all of the following: 508

(a) A site plan and proposal describing how the sick-child 509  
care center proposes to satisfy the requirements of this section 510  
and sections 5104.16 and 5104.17 of the Revised Code and rules 511  
adopted pursuant to section 5104.0113 of the Revised Code; 512

(b) The maximum number of children served by the sick- 513  
child care center at one time; 514

(c) The number of adults providing sick-child care for the 515  
children; 516

(d) An admissions policy that meets the requirements of 517  
section 5104.17 of the Revised Code; 518

(e) Any other information the director considers 519  
necessary. 520

(2) Fees shall be set by the director pursuant to section 521  
5104.0113 of the Revised Code and shall be paid at the time of 522  
application for a license to operate a sick-child care center. 523  
Fees collected under this section shall be paid into the state 524  
treasury to the credit of the general revenue fund. 525

(D) When an application for a license is filed, the 526  
director may investigate and inspect the sick-child care center 527  
to determine whether it satisfies the requirements of this 528

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

(E) The director may deny an application or revoke a 537  
license of a sick-child care center if it does not comply with 538  
the requirements of this section and sections 5104.16 and 539  
5104.17 of the Revised Code and rules adopted pursuant to 540  
section 5104.0113 of the Revised Code. 541

(F) If the director finds, after notice and hearing 542  
pursuant to Chapter 119. of the Revised Code, that any 543  
applicant, person, firm, organization, institution, or agency 544  
applying for licensure or licensed under this section is in 545  
violation of any provision of this section and sections 5104.16 546  
to 5104.18 of the Revised Code and rules adopted pursuant to 547  
section 5104.0113 of the Revised Code, the director may issue an 548  
order of denial to the applicant or an order of revocation to 549  
the sick-child care center revoking the license previously 550  
issued by the director. Upon the issuance of such an order, the 551  
person whose application is denied or whose license is revoked 552  
may appeal in accordance with section 119.12 of the Revised 553  
Code. 554

(G) The surrender of a sick-child care center license to 555  
the director or the withdrawal of an application for licensure 556  
shall not prohibit the director from instituting any of the 557  
actions set forth in this section. 558

(H) The director, upon determining that the sick-child care center is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the sick-child care center is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the sick-child care center is located, that the sick-child care center is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the sick-child care center is located requesting that the court grant an order enjoining the owner from operating the sick-child care center in violation of this section. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a sick-child care center and is doing so without a license. 559  
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**Sec. 5104.16.** (A) A sick-child care center shall satisfy all of the following requirements: 576  
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(1) Have a physician, certified nurse practitioner, or registered nurse on the premises whenever children are in care; 578  
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(2) Have a licensed practical nurse or nurse aide on the premises whenever children are in care; 580  
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(3) Have a maximum number of children per staff member of four to one; 582  
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(4) Have a maximum number of preschool-age children or school-age children receiving care in each room of two to one; 584  
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(5) Provide a separate room for evaluating children before admission; 586  
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- (6) Provide a separate room for children recovering from illness who are no longer contagious; 588  
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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; 590  
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- (8) Provide a separate room for children exhibiting symptoms of gastrointestinal illnesses; 594  
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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; 596  
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- (10) Have an area set aside for play, entertainment, education, and other activities; 599  
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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; 601  
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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; 605  
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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; 609  
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- (14) Meet the standards regarding blood borne pathogens in health care settings developed by the federal occupational safety and health administration; 612  
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- (15) Have a referral network that provides for timely 615

consultation with pediatric subspecialists and, when necessary, 616  
transfer of children to a hospital that offers more advanced 617  
pediatric care, including access to an air and ground 618  
transportation system that is responsive and appropriately 619  
equipped and staffed to care for children of all ages. 620

(B) A sick-child care center's health care policies and 621  
procedures shall be reviewed quarterly by a physician, certified 622  
nurse practitioner, or registered nurse. 623

(C) A sick-child care center shall not provide child care 624  
for any child who is not sick or does not have another short- 625  
term medical condition. Rooms used to provide child care for 626  
sick children shall not be used for any other child care purpose 627  
at any time. 628

**Sec. 5104.17.** (A) (1) Each sick-child care center shall 629  
develop a written policy governing the admission of children to 630  
receive child care. The admissions policy shall include a 631  
description of the types of illnesses and injuries for which a 632  
child may be admitted to the sick-child care center and the 633  
types for which a child may be excluded. 634

(2) At the following intervals, the admissions policy 635  
shall be reviewed and approved by a physician who is board- 636  
certified in family medicine or general pediatrics, as those 637  
designations are issued by a medical specialty certifying board 638  
recognized by the American board of medical specialties or 639  
American osteopathic association, in consultation with a 640  
physician, certified nurse practitioner, or registered nurse 641  
affiliated with the sick-child care center who performs or will 642  
perform the evaluations described in division (B) of this 643  
section: 644

- (a) At the time of initial application for licensure; 645
- (b) After the first six months of operation; 646
- (c) Annually, after the first six months of operation. 647
- (3) An applicant for a license under section 5104.15 of 648  
the Revised Code shall include a report of the reviewing 649  
physician's findings and the approved admissions policy with the 650  
application for licensure. Subsequent reports of the reviewing 651  
physician shall be kept on file at the sick-child care center 652  
and made available for inspection. 653
- (B) (1) A sick-child care center shall evaluate each child 654  
before admitting the child to the sick-child care center. A 655  
physician, certified nurse practitioner, or registered nurse 656  
affiliated with the sick-child care center shall perform the 657  
evaluation. An evaluation shall be performed for each day that 658  
the child seeks admission to the sick-child care center. The 659  
evaluation shall be based on all of the following: 660
- (a) The child's symptoms; 661
- (b) The likelihood of contagion; 662
- (c) The health risks presented to other individuals; 663
- (d) The sick-child care center's ability to provide 664  
adequate care; 665
- (e) The sick-child care center's admissions policy. 666
- (2) The sick-child care center shall conduct a preliminary 667  
evaluation over the telephone or internet before the caretaker 668  
parent brings the child to the sick-child care center. Based on 669  
the preliminary evaluation, the physician, certified nurse 670  
practitioner, or registered nurse shall notify the caretaker 671



parent whether the caretaker parent may bring the child to the 672  
sick-child care center for further evaluation. 673

(3) If the physician, certified nurse practitioner, or 674  
registered nurse determines that the caretaker parent may bring 675  
the child to the center and the child is brought to the center, 676  
a second evaluation shall be performed before admission. This 677  
evaluation shall include a physical examination of the child, an 678  
assessment of the child's symptoms, and the taking of a medical 679  
history. 680

(C) The decision of a physician, certified nurse 681  
practitioner, or registered nurse not to admit a child to the 682  
sick-child care center is final. 683

(D) Upon admission, the sick-child care center shall 684  
provide to the child's caretaker parent a summary of its 685  
policies and procedures, including its procedures for notifying 686  
the caretaker parent in the event of an emergency. 687

**Sec. 5104.99.** (A) Whoever violates section 5104.02 of the 688  
Revised Code shall be punished as follows: 689

(1) For each offense, the offender shall be fined not less 690  
than one hundred dollars nor more than five hundred dollars 691  
multiplied by the number of children receiving child care at the 692  
child day-care center or type A family day-care home that either 693  
exceeds the number of children to which a type B family day-care 694  
home may provide child care or, if the offender is a licensed 695  
type A family day-care home that is operating as a child day- 696  
care center without being licensed as a center, exceeds the 697  
license capacity of the type A home. 698

(2) In addition to the fine specified in division (A) (1) 699  
of this section, all of the following apply: 700

(a) Except as provided in divisions (A) (2) (b), (c), and 701  
(d) of this section, the court shall order the offender to 702  
reduce the number of children to which it provides child care to 703  
a number that does not exceed either the number of children to 704  
which a type B family day-care home may provide child care or, 705  
if the offender is a licensed type A family day-care home that 706  
is operating as a child day-care center without being licensed 707  
as a center, the license capacity of the type A home. 708

(b) If the offender previously has been convicted of or 709  
pleaded guilty to one violation of section 5104.02 of the 710  
Revised Code, the court shall order the offender to cease the 711  
provision of child care to any person until it obtains a child 712  
day-care center license or a type A family day-care home 713  
license, as appropriate, under section 5104.03 of the Revised 714  
Code. 715

(c) If the offender previously has been convicted of or 716  
pleaded guilty to two violations of section 5104.02 of the 717  
Revised Code, the offender is guilty of a misdemeanor of the 718  
first degree, and the court shall order the offender to cease 719  
the provision of child care to any person until it obtains a 720  
child day-care center license or a type A family day-care home 721  
license, as appropriate, under section 5104.03 of the Revised 722  
Code. The court shall impose the fine specified in division (A) 723  
(1) of this section and may impose an additional fine provided 724  
that the total amount of the fines so imposed does not exceed 725  
the maximum fine authorized for a misdemeanor of the first 726  
degree under section 2929.28 of the Revised Code. 727

(d) If the offender previously has been convicted of or 728  
pleaded guilty to three or more violations of section 5104.02 of 729  
the Revised Code, the offender is guilty of a felony of the 730

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

(B) Whoever violates division (M) (4) of section 5104.013 740  
of the Revised Code is guilty of a misdemeanor of the first 741  
degree. If the offender is a licensee of a center, type A home, 742  
or licensed type B home, the conviction shall constitute grounds 743  
for denial or revocation of an application for licensure 744  
pursuant to section 5104.04 of the Revised Code. Except as 745  
otherwise provided in this division, the offense established 746  
under division (M) (4) of section 5104.013 of the Revised Code is 747  
a strict liability offense, and section 2901.20 of the Revised 748  
Code does not apply. If the offender is a person eighteen years 749  
of age or older residing in a type A home or licensed type B 750  
home or is an employee of a center, type A home, or licensed 751  
type B home and if the licensee had knowledge of, and acquiesced 752  
in, the commission of the offense, the conviction shall 753  
constitute grounds for denial or revocation of an application 754  
for licensure pursuant to section 5104.04 of the Revised Code. 755

(C) Whoever violates section 5104.09 of the Revised Code 756  
is guilty of a misdemeanor of the third degree. 757

(D) Whoever violates section 5104.15 of the Revised Code 758  
shall be punished as follows: 759

(1) For each offense, the offender shall be fined not less 760

than one hundred dollars nor more than five hundred dollars 761  
multiplied by the average number of children per day receiving 762  
child care at the sick-child care center. 763

(2) In addition to the fine specified in division (D)(1) 764  
of this section, all of the following apply: 765

(a) Except as provided in divisions (D)(2)(b), (c), and 766  
(d) of this section, the court shall order the offender to 767  
reduce the number of children for which it provides child care 768  
to a number that does not exceed the number of children for 769  
which a type B family day-care home may provide child care. 770

(b) If the offender previously has been convicted of or 771  
pleaded guilty to one violation of section 5104.15 of the 772  
Revised Code, the court shall order the offender to cease the 773  
provision of child care for any child until it obtains a sick- 774  
child care center license under section 5104.15 of the Revised 775  
Code. 776

(c) If the offender previously has been convicted of or 777  
pleaded guilty to two violations of section 5104.15 of the 778  
Revised Code, the offender is guilty of a misdemeanor of the 779  
first degree, and the court shall order the offender to cease 780  
the provision of child care for any child until it obtains a 781  
sick-child care center license under section 5104.15 of the 782  
Revised Code. The court shall impose the fine specified in 783  
division (D)(1) of this section and may impose an additional 784  
fine provided that the total amount of the fines so imposed does 785  
not exceed the maximum fine authorized for a misdemeanor of the 786  
first degree under section 2929.28 of the Revised Code. 787

(d) If the offender previously has been convicted of or 788  
pleaded guilty to three or more violations of section 5104.15 of 789

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

**Section 2.** That existing sections 5104.01, 5104.015, and 799  
5104.99 of the Revised Code are hereby repealed. 800