

As Reported by the House Health and Aging Committee

131st General Assembly

Regular Session

2015-2016

Sub. H. B. No. 470

Representative Schuring

Cosponsors: Representatives Bishoff, Brown, Johnson, T.

A BILL

To amend sections 109.57, 140.01, 140.08, 1337.11, 1
2133.01, 2317.54, 3701.881, 3712.01, 3712.09, 2
3721.01, 3795.01, 3963.01, 4719.01, 4723.36, 3
4723.481, 4723.487, 4729.43, 4730.202, 4730.411, 4
4730.53, 4731.055, 4731.228, 4752.02, and 5
5119.34 and to enact sections 3712.032, 6
3712.042, 3712.052, and 3712.063 of the Revised 7
Code regarding licensure of palliative care 8
facilities. 9

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

Section 1. That sections 109.57, 140.01, 140.08, 1337.11, 10
2133.01, 2317.54, 3701.881, 3712.01, 3712.09, 3721.01, 3795.01, 11
3963.01, 4719.01, 4723.36, 4723.481, 4723.487, 4729.43, 12
4730.202, 4730.411, 4730.53, 4731.055, 4731.228, 4752.02, and 13
5119.34 be amended and sections 3712.032, 3712.042, 3712.052, 14
and 3712.063 of the Revised Code be enacted to read as follows: 15

Sec. 109.57. (A) (1) The superintendent of the bureau of 16
criminal identification and investigation shall procure from 17
wherever procurable and file for record photographs, pictures, 18

descriptions, fingerprints, measurements, and other information 19
that may be pertinent of all persons who have been convicted of 20
committing within this state a felony, any crime constituting a 21
misdemeanor on the first offense and a felony on subsequent 22
offenses, or any misdemeanor described in division (A) (1) (a), 23
(A) (5) (a), or (A) (7) (a) of section 109.572 of the Revised Code, 24
of all children under eighteen years of age who have been 25
adjudicated delinquent children for committing within this state 26
an act that would be a felony or an offense of violence if 27
committed by an adult or who have been convicted of or pleaded 28
guilty to committing within this state a felony or an offense of 29
violence, and of all well-known and habitual criminals. The 30
person in charge of any county, multicounty, municipal, 31
municipal-county, or multicounty-municipal jail or workhouse, 32
community-based correctional facility, halfway house, 33
alternative residential facility, or state correctional 34
institution and the person in charge of any state institution 35
having custody of a person suspected of having committed a 36
felony, any crime constituting a misdemeanor on the first 37
offense and a felony on subsequent offenses, or any misdemeanor 38
described in division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of 39
section 109.572 of the Revised Code or having custody of a child 40
under eighteen years of age with respect to whom there is 41
probable cause to believe that the child may have committed an 42
act that would be a felony or an offense of violence if 43
committed by an adult shall furnish such material to the 44
superintendent of the bureau. Fingerprints, photographs, or 45
other descriptive information of a child who is under eighteen 46
years of age, has not been arrested or otherwise taken into 47
custody for committing an act that would be a felony or an 48
offense of violence who is not in any other category of child 49
specified in this division, if committed by an adult, has not 50

been adjudicated a delinquent child for committing an act that 51
would be a felony or an offense of violence if committed by an 52
adult, has not been convicted of or pleaded guilty to committing 53
a felony or an offense of violence, and is not a child with 54
respect to whom there is probable cause to believe that the 55
child may have committed an act that would be a felony or an 56
offense of violence if committed by an adult shall not be 57
procured by the superintendent or furnished by any person in 58
charge of any county, multicounty, municipal, municipal-county, 59
or multicounty-municipal jail or workhouse, community-based 60
correctional facility, halfway house, alternative residential 61
facility, or state correctional institution, except as 62
authorized in section 2151.313 of the Revised Code. 63

(2) Every clerk of a court of record in this state, other 64
than the supreme court or a court of appeals, shall send to the 65
superintendent of the bureau a weekly report containing a 66
summary of each case involving a felony, involving any crime 67
constituting a misdemeanor on the first offense and a felony on 68
subsequent offenses, involving a misdemeanor described in 69
division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 70
of the Revised Code, or involving an adjudication in a case in 71
which a child under eighteen years of age was alleged to be a 72
delinquent child for committing an act that would be a felony or 73
an offense of violence if committed by an adult. The clerk of 74
the court of common pleas shall include in the report and 75
summary the clerk sends under this division all information 76
described in divisions (A) (2) (a) to (f) of this section 77
regarding a case before the court of appeals that is served by 78
that clerk. The summary shall be written on the standard forms 79
furnished by the superintendent pursuant to division (B) of this 80
section and shall include the following information: 81

(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;	82 83 84
(b) The style and number of the case;	85
(c) The date of arrest, offense, summons, or arraignment;	86
(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;	87 88 89 90 91 92 93 94 95 96 97 98
(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;	99 100
(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.	101 102 103 104
If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.	105 106 107 108 109
(3) The superintendent shall cooperate with and assist	110

sheriffs, chiefs of police, and other law enforcement officers 111
in the establishment of a complete system of criminal 112
identification and in obtaining fingerprints and other means of 113
identification of all persons arrested on a charge of a felony, 114
any crime constituting a misdemeanor on the first offense and a 115
felony on subsequent offenses, or a misdemeanor described in 116
division (A) (1) (a), (A) (5) (a), or (A) (7) (a) of section 109.572 117
of the Revised Code and of all children under eighteen years of 118
age arrested or otherwise taken into custody for committing an 119
act that would be a felony or an offense of violence if 120
committed by an adult. The superintendent also shall file for 121
record the fingerprint impressions of all persons confined in a 122
county, multicounty, municipal, municipal-county, or 123
multicounty-municipal jail or workhouse, community-based 124
correctional facility, halfway house, alternative residential 125
facility, or state correctional institution for the violation of 126
state laws and of all children under eighteen years of age who 127
are confined in a county, multicounty, municipal, municipal- 128
county, or multicounty-municipal jail or workhouse, community- 129
based correctional facility, halfway house, alternative 130
residential facility, or state correctional institution or in 131
any facility for delinquent children for committing an act that 132
would be a felony or an offense of violence if committed by an 133
adult, and any other information that the superintendent may 134
receive from law enforcement officials of the state and its 135
political subdivisions. 136

(4) The superintendent shall carry out Chapter 2950. of 137
the Revised Code with respect to the registration of persons who 138
are convicted of or plead guilty to a sexually oriented offense 139
or a child-victim oriented offense and with respect to all other 140
duties imposed on the bureau under that chapter. 141

(5) The bureau shall perform centralized recordkeeping 142
functions for criminal history records and services in this 143
state for purposes of the national crime prevention and privacy 144
compact set forth in section 109.571 of the Revised Code and is 145
the criminal history record repository as defined in that 146
section for purposes of that compact. The superintendent or the 147
superintendent's designee is the compact officer for purposes of 148
that compact and shall carry out the responsibilities of the 149
compact officer specified in that compact. 150

(B) The superintendent shall prepare and furnish to every 151
county, multicounty, municipal, municipal-county, or 152
multicounty-municipal jail or workhouse, community-based 153
correctional facility, halfway house, alternative residential 154
facility, or state correctional institution and to every clerk 155
of a court in this state specified in division (A) (2) of this 156
section standard forms for reporting the information required 157
under division (A) of this section. The standard forms that the 158
superintendent prepares pursuant to this division may be in a 159
tangible format, in an electronic format, or in both tangible 160
formats and electronic formats. 161

(C) (1) The superintendent may operate a center for 162
electronic, automated, or other data processing for the storage 163
and retrieval of information, data, and statistics pertaining to 164
criminals and to children under eighteen years of age who are 165
adjudicated delinquent children for committing an act that would 166
be a felony or an offense of violence if committed by an adult, 167
criminal activity, crime prevention, law enforcement, and 168
criminal justice, and may establish and operate a statewide 169
communications network to be known as the Ohio law enforcement 170
gateway to gather and disseminate information, data, and 171
statistics for the use of law enforcement agencies and for other 172

uses specified in this division. The superintendent may gather, 173
store, retrieve, and disseminate information, data, and 174
statistics that pertain to children who are under eighteen years 175
of age and that are gathered pursuant to sections 109.57 to 176
109.61 of the Revised Code together with information, data, and 177
statistics that pertain to adults and that are gathered pursuant 178
to those sections. 179

(2) The superintendent or the superintendent's designee 180
shall gather information of the nature described in division (C) 181
(1) of this section that pertains to the offense and delinquency 182
history of a person who has been convicted of, pleaded guilty 183
to, or been adjudicated a delinquent child for committing a 184
sexually oriented offense or a child-victim oriented offense for 185
inclusion in the state registry of sex offenders and child- 186
victim offenders maintained pursuant to division (A) (1) of 187
section 2950.13 of the Revised Code and in the internet database 188
operated pursuant to division (A) (13) of that section and for 189
possible inclusion in the internet database operated pursuant to 190
division (A) (11) of that section. 191

(3) In addition to any other authorized use of 192
information, data, and statistics of the nature described in 193
division (C) (1) of this section, the superintendent or the 194
superintendent's designee may provide and exchange the 195
information, data, and statistics pursuant to the national crime 196
prevention and privacy compact as described in division (A) (5) 197
of this section. 198

(4) The attorney general may adopt rules under Chapter 199
119. of the Revised Code establishing guidelines for the 200
operation of and participation in the Ohio law enforcement 201
gateway. The rules may include criteria for granting and 202

restricting access to information gathered and disseminated 203
through the Ohio law enforcement gateway. The attorney general 204
shall permit the state medical board and board of nursing to 205
access and view, but not alter, information gathered and 206
disseminated through the Ohio law enforcement gateway. 207

The attorney general may appoint a steering committee to 208
advise the attorney general in the operation of the Ohio law 209
enforcement gateway that is comprised of persons who are 210
representatives of the criminal justice agencies in this state 211
that use the Ohio law enforcement gateway and is chaired by the 212
superintendent or the superintendent's designee. 213

(D) (1) The following are not public records under section 214
149.43 of the Revised Code: 215

(a) Information and materials furnished to the 216
superintendent pursuant to division (A) of this section; 217

(b) Information, data, and statistics gathered or 218
disseminated through the Ohio law enforcement gateway pursuant 219
to division (C) (1) of this section; 220

(c) Information and materials furnished to any board or 221
person under division (F) or (G) of this section. 222

(2) The superintendent or the superintendent's designee 223
shall gather and retain information so furnished under division 224
(A) of this section that pertains to the offense and delinquency 225
history of a person who has been convicted of, pleaded guilty 226
to, or been adjudicated a delinquent child for committing a 227
sexually oriented offense or a child-victim oriented offense for 228
the purposes described in division (C) (2) of this section. 229

(E) (1) The attorney general shall adopt rules, in 230
accordance with Chapter 119. of the Revised Code and subject to 231

division (E) (2) of this section, setting forth the procedure by 232
which a person may receive or release information gathered by 233
the superintendent pursuant to division (A) of this section. A 234
reasonable fee may be charged for this service. If a temporary 235
employment service submits a request for a determination of 236
whether a person the service plans to refer to an employment 237
position has been convicted of or pleaded guilty to an offense 238
listed or described in division (A) (1), (2), or (3) of section 239
109.572 of the Revised Code, the request shall be treated as a 240
single request and only one fee shall be charged. 241

(2) Except as otherwise provided in this division or 242
division (E) (3) or (4) of this section, a rule adopted under 243
division (E) (1) of this section may provide only for the release 244
of information gathered pursuant to division (A) of this section 245
that relates to the conviction of a person, or a person's plea 246
of guilty to, a criminal offense or to the arrest of a person as 247
provided in division (E) (3) of this section. The superintendent 248
shall not release, and the attorney general shall not adopt any 249
rule under division (E) (1) of this section that permits the 250
release of, any information gathered pursuant to division (A) of 251
this section that relates to an adjudication of a child as a 252
delinquent child, or that relates to a criminal conviction of a 253
person under eighteen years of age if the person's case was 254
transferred back to a juvenile court under division (B) (2) or 255
(3) of section 2152.121 of the Revised Code and the juvenile 256
court imposed a disposition or serious youthful offender 257
disposition upon the person under either division, unless either 258
of the following applies with respect to the adjudication or 259
conviction: 260

(a) The adjudication or conviction was for a violation of 261
section 2903.01 or 2903.02 of the Revised Code. 262

(b) The adjudication or conviction was for a sexually 263
oriented offense, the juvenile court was required to classify 264
the child a juvenile offender registrant for that offense under 265
section 2152.82, 2152.83, or 2152.86 of the Revised Code, that 266
classification has not been removed, and the records of the 267
adjudication or conviction have not been sealed or expunged 268
pursuant to sections 2151.355 to 2151.358 or sealed pursuant to 269
section 2952.32 of the Revised Code. 270

(3) A rule adopted under division (E) (1) of this section 271
may provide for the release of information gathered pursuant to 272
division (A) of this section that relates to the arrest of a 273
person who is eighteen years of age or older when the person has 274
not been convicted as a result of that arrest if any of the 275
following applies: 276

(a) The arrest was made outside of this state. 277

(b) A criminal action resulting from the arrest is 278
pending, and the superintendent confirms that the criminal 279
action has not been resolved at the time the criminal records 280
check is performed. 281

(c) The bureau cannot reasonably determine whether a 282
criminal action resulting from the arrest is pending, and not 283
more than one year has elapsed since the date of the arrest. 284

(4) A rule adopted under division (E) (1) of this section 285
may provide for the release of information gathered pursuant to 286
division (A) of this section that relates to an adjudication of 287
a child as a delinquent child if not more than five years have 288
elapsed since the date of the adjudication, the adjudication was 289
for an act that would have been a felony if committed by an 290
adult, the records of the adjudication have not been sealed or 291

expunged pursuant to sections 2151.355 to 2151.358 of the Revised Code, and the request for information is made under division (F) of this section or under section 109.572 of the Revised Code. In the case of an adjudication for a violation of the terms of community control or supervised release, the five-year period shall be calculated from the date of the adjudication to which the community control or supervised release pertains.

(F) (1) As used in division (F) (2) of this section, "head start agency" means an entity in this state that has been approved to be an agency for purposes of subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, as amended.

(2) (a) In addition to or in conjunction with any request that is required to be made under section 109.572, 2151.86, 3301.32, 3301.541, division (C) of section 3310.58, or section 3319.39, 3319.391, 3327.10, 3701.881, 5104.013, 5123.081, or 5153.111 of the Revised Code or that is made under section 3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the board of education of any school district; the director of developmental disabilities; any county board of developmental disabilities; any provider or subcontractor as defined in section 5123.081 of the Revised Code; the chief administrator of any chartered nonpublic school; the chief administrator of a registered private provider that is not also a chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed under Chapter 5104. of the Revised Code; the chief administrator of any head start agency; the executive director of a public children services agency; a private company

described in section 3314.41, 3319.392, 3326.25, or 3328.20 of 323
the Revised Code; or an employer described in division (J) (2) of 324
section 3327.10 of the Revised Code may request that the 325
superintendent of the bureau investigate and determine, with 326
respect to any individual who has applied for employment in any 327
position after October 2, 1989, or any individual wishing to 328
apply for employment with a board of education may request, with 329
regard to the individual, whether the bureau has any information 330
gathered under division (A) of this section that pertains to 331
that individual. On receipt of the request, subject to division 332
(E) (2) of this section, the superintendent shall determine 333
whether that information exists and, upon request of the person, 334
board, or entity requesting information, also shall request from 335
the federal bureau of investigation any criminal records it has 336
pertaining to that individual. The superintendent or the 337
superintendent's designee also may request criminal history 338
records from other states or the federal government pursuant to 339
the national crime prevention and privacy compact set forth in 340
section 109.571 of the Revised Code. Within thirty days of the 341
date that the superintendent receives a request, subject to 342
division (E) (2) of this section, the superintendent shall send 343
to the board, entity, or person a report of any information that 344
the superintendent determines exists, including information 345
contained in records that have been sealed under section 2953.32 346
of the Revised Code, and, within thirty days of its receipt, 347
subject to division (E) (2) of this section, shall send the 348
board, entity, or person a report of any information received 349
from the federal bureau of investigation, other than information 350
the dissemination of which is prohibited by federal law. 351

(b) When a board of education or a registered private 352
provider is required to receive information under this section 353

as a prerequisite to employment of an individual pursuant to 354
division (C) of section 3310.58 or section 3319.39 of the 355
Revised Code, it may accept a certified copy of records that 356
were issued by the bureau of criminal identification and 357
investigation and that are presented by an individual applying 358
for employment with the district in lieu of requesting that 359
information itself. In such a case, the board shall accept the 360
certified copy issued by the bureau in order to make a photocopy 361
of it for that individual's employment application documents and 362
shall return the certified copy to the individual. In a case of 363
that nature, a district or provider only shall accept a 364
certified copy of records of that nature within one year after 365
the date of their issuance by the bureau. 366

(c) Notwithstanding division (F) (2) (a) of this section, in 367
the case of a request under section 3319.39, 3319.391, or 368
3327.10 of the Revised Code only for criminal records maintained 369
by the federal bureau of investigation, the superintendent shall 370
not determine whether any information gathered under division 371
(A) of this section exists on the person for whom the request is 372
made. 373

(3) The state board of education may request, with respect 374
to any individual who has applied for employment after October 375
2, 1989, in any position with the state board or the department 376
of education, any information that a school district board of 377
education is authorized to request under division (F) (2) of this 378
section, and the superintendent of the bureau shall proceed as 379
if the request has been received from a school district board of 380
education under division (F) (2) of this section. 381

(4) When the superintendent of the bureau receives a 382
request for information under section 3319.291 of the Revised 383

Code, the superintendent shall proceed as if the request has 384
been received from a school district board of education and 385
shall comply with divisions (F) (2) (a) and (c) of this section. 386

(5) When a recipient of a classroom reading improvement 387
grant paid under section 3301.86 of the Revised Code requests, 388
with respect to any individual who applies to participate in 389
providing any program or service funded in whole or in part by 390
the grant, the information that a school district board of 391
education is authorized to request under division (F) (2) (a) of 392
this section, the superintendent of the bureau shall proceed as 393
if the request has been received from a school district board of 394
education under division (F) (2) (a) of this section. 395

(G) In addition to or in conjunction with any request that 396
is required to be made under section 3701.881, 3712.09, or 397
3721.121 of the Revised Code with respect to an individual who 398
has applied for employment in a position that involves providing 399
direct care to an older adult or adult resident, the chief 400
administrator of a home health agency, hospice care program, 401
home licensed under Chapter 3721. of the Revised Code, or adult 402
day-care program operated pursuant to rules adopted under 403
section 3721.04 of the Revised Code may request that the 404
superintendent of the bureau investigate and determine, with 405
respect to any individual who has applied after January 27, 406
1997, for employment in a position that does not involve 407
providing direct care to an older adult or adult resident, 408
whether the bureau has any information gathered under division 409
(A) of this section that pertains to that individual. 410

In addition to or in conjunction with any request that is 411
required to be made under section 173.27 of the Revised Code 412
with respect to an individual who has applied for employment in 413

a position that involves providing ombudsman services to 414
residents of long-term care facilities or recipients of 415
community-based long-term care services, the state long-term 416
care ombudsman, the director of aging, a regional long-term care 417
ombudsman program, or the designee of the ombudsman, director, 418
or program may request that the superintendent investigate and 419
determine, with respect to any individual who has applied for 420
employment in a position that does not involve providing such 421
ombudsman services, whether the bureau has any information 422
gathered under division (A) of this section that pertains to 423
that applicant. 424

In addition to or in conjunction with any request that is 425
required to be made under section 173.38 of the Revised Code 426
with respect to an individual who has applied for employment in 427
a direct-care position, the chief administrator of a provider, 428
as defined in section 173.39 of the Revised Code, may request 429
that the superintendent investigate and determine, with respect 430
to any individual who has applied for employment in a position 431
that is not a direct-care position, whether the bureau has any 432
information gathered under division (A) of this section that 433
pertains to that applicant. 434

In addition to or in conjunction with any request that is 435
required to be made under section 3712.09 of the Revised Code 436
with respect to an individual who has applied for employment in 437
a position that involves providing direct care to a pediatric 438
respite care patient or palliative care patient, the chief 439
administrator of a pediatric respite care program or palliative 440
care facility may request that the superintendent of the bureau 441
investigate and determine, with respect to any individual who 442
has applied for employment in a position that does not involve 443
providing direct care to a pediatric respite care patient or 444

palliative care patient, whether the bureau has any information 445
gathered under division (A) of this section that pertains to 446
that individual. 447

On receipt of a request under this division, the 448
superintendent shall determine whether that information exists 449
and, on request of the individual requesting information, shall 450
also request from the federal bureau of investigation any 451
criminal records it has pertaining to the applicant. The 452
superintendent or the superintendent's designee also may request 453
criminal history records from other states or the federal 454
government pursuant to the national crime prevention and privacy 455
compact set forth in section 109.571 of the Revised Code. Within 456
thirty days of the date a request is received, subject to 457
division (E) (2) of this section, the superintendent shall send 458
to the requester a report of any information determined to 459
exist, including information contained in records that have been 460
sealed under section 2953.32 of the Revised Code, and, within 461
thirty days of its receipt, shall send the requester a report of 462
any information received from the federal bureau of 463
investigation, other than information the dissemination of which 464
is prohibited by federal law. 465

(H) Information obtained by a government entity or person 466
under this section is confidential and shall not be released or 467
disseminated. 468

(I) The superintendent may charge a reasonable fee for 469
providing information or criminal records under division (F) (2) 470
or (G) of this section. 471

(J) As used in this section: 472

(1) "~~Pediatric~~ Palliative care facility," "palliative care" 473

patient," "pediatric respite care patient," and "pediatric 474
respite care program" and "~~pediatric care patient~~" have the same 475
meanings as in section 3712.01 of the Revised Code. 476

(2) "Sexually oriented offense" and "child-victim oriented 477
offense" have the same meanings as in section 2950.01 of the 478
Revised Code. 479

(3) "Registered private provider" means a nonpublic school 480
or entity registered with the superintendent of public 481
instruction under section 3310.41 of the Revised Code to 482
participate in the autism scholarship program or section 3310.58 483
of the Revised Code to participate in the Jon Peterson special 484
needs scholarship program. 485

Sec. 140.01. As used in this chapter: 486

(A) "Hospital agency" means any public hospital agency or 487
any nonprofit hospital agency. 488

(B) "Public hospital agency" means any county, board of 489
county hospital trustees established pursuant to section 339.02 490
of the Revised Code, county hospital commission established 491
pursuant to section 339.14 of the Revised Code, municipal 492
corporation, new community authority organized under Chapter 493
349. of the Revised Code, joint township hospital district, 494
state or municipal university or college operating or authorized 495
to operate a hospital facility, or the state. 496

(C) "Nonprofit hospital agency" means a corporation or 497
association not for profit, no part of the net earnings of which 498
inures or may lawfully inure to the benefit of any private 499
shareholder or individual, that has authority to own or operate 500
a hospital facility or provides or is to provide services to one 501
or more other hospital agencies. 502

(D) "Governing body" means, in the case of a county, the board of county commissioners or other legislative body; in the case of a board of county hospital trustees, the board; in the case of a county hospital commission, the commission; in the case of a municipal corporation, the council or other legislative authority; in the case of a new community authority, its board of trustees; in the case of a joint township hospital district, the joint township district hospital board; in the case of a state or municipal university or college, its board of trustees or board of directors; in the case of a nonprofit hospital agency, the board of trustees or other body having general management of the agency; and, in the case of the state, the director of development services or the Ohio higher educational facility commission.

(E) "Hospital facilities" means buildings, structures and other improvements, additions thereto and extensions thereof, furnishings, equipment, and real estate and interests in real estate, used or to be used for or in connection with one or more hospitals, emergency, intensive, intermediate, extended, long-term, or self-care facilities, diagnostic and treatment and out-patient facilities, facilities related to programs for home health services, clinics, laboratories, public health centers, research facilities, and rehabilitation facilities, for or pertaining to diagnosis, treatment, care, or rehabilitation of sick, ill, injured, infirm, impaired, disabled, or handicapped persons, or the prevention, detection, and control of disease, and also includes education, training, and food service facilities for health professions personnel, housing facilities for such personnel and their families, and parking and service facilities in connection with any of the foregoing; and includes any one, part of, or any combination of the foregoing; and

further includes site improvements, utilities, machinery, 534
facilities, furnishings, and any separate or connected 535
buildings, structures, improvements, sites, utilities, 536
facilities, or equipment to be used in, or in connection with 537
the operation or maintenance of, or supplementing or otherwise 538
related to the services or facilities to be provided by, any one 539
or more of such hospital facilities. 540

(F) "Costs of hospital facilities" means the costs of 541
acquiring hospital facilities or interests in hospital 542
facilities, including membership interests in nonprofit hospital 543
agencies, costs of constructing hospital facilities, costs of 544
improving one or more hospital facilities, including 545
reconstructing, rehabilitating, remodeling, renovating, and 546
enlarging, costs of equipping and furnishing such facilities, 547
and all financing costs pertaining thereto, including, without 548
limitation thereto, costs of engineering, architectural, and 549
other professional services, designs, plans, specifications and 550
surveys, and estimates of cost, costs of tests and inspections, 551
the costs of any indemnity or surety bonds and premiums on 552
insurance, all related direct or allocable administrative 553
expenses pertaining thereto, fees and expenses of trustees, 554
depositories, and paying agents for the obligations, cost of 555
issuance of the obligations and financing charges and fees and 556
expenses of financial advisors, attorneys, accountants, 557
consultants and rating services in connection therewith, 558
capitalized interest on the obligations, amounts necessary to 559
establish reserves as required by the bond proceedings, the 560
reimbursement of all moneys advanced or applied by the hospital 561
agency or others or borrowed from others for the payment of any 562
item or items of costs of such facilities, and all other 563
expenses necessary or incident to planning or determining 564

feasibility or practicability with respect to such facilities, 565
and such other expenses as may be necessary or incident to the 566
acquisition, construction, reconstruction, rehabilitation, 567
remodeling, renovation, enlargement, improvement, equipment, and 568
furnishing of such facilities, the financing thereof, and the 569
placing of the same in use and operation, including any one, 570
part of, or combination of such classes of costs and expenses, 571
and means the costs of refinancing obligations issued by, or 572
reimbursement of money advanced by, nonprofit hospital agencies 573
or others the proceeds of which were used for the payment of 574
costs of hospital facilities, if the governing body of the 575
public hospital agency determines that the refinancing or 576
reimbursement advances the purposes of this chapter, whether or 577
not the refinancing or reimbursement is in conjunction with the 578
acquisition or construction of additional hospital facilities. 579

(G) "Hospital receipts" means all moneys received by or on 580
behalf of a hospital agency from or in connection with the 581
ownership, operation, acquisition, construction, improvement, 582
equipping, or financing of any hospital facilities, including, 583
without limitation thereto, any rentals and other moneys 584
received from the lease, sale, or other disposition of hospital 585
facilities, and any gifts, grants, interest subsidies, or other 586
moneys received under any federal program for assistance in 587
financing the costs of hospital facilities, and any other gifts, 588
grants, and donations, and receipts therefrom, available for 589
financing the costs of hospital facilities. 590

(H) "Obligations" means bonds, notes, or other evidences 591
of indebtedness or obligation, including interest coupons 592
pertaining thereto, issued or issuable by a public hospital 593
agency to pay costs of hospital facilities. 594

(I) "Bond service charges" means principal, interest, and call premium, if any, required to be paid on obligations.	595 596
(J) "Bond proceedings" means one or more ordinances, resolutions, trust agreements, indentures, and other agreements or documents, and amendments and supplements to the foregoing, or any combination thereof, authorizing or providing for the terms, including any variable interest rates, and conditions applicable to, or providing for the security of, obligations and the provisions contained in such obligations.	597 598 599 600 601 602 603
(K) "Nursing home" has the same meaning as in division (A) (1) of section 5701.13 of the Revised Code.	604 605
(L) "Residential care facility" has the same meaning as in division (A) (2) of section 5701.13 of the Revised Code.	606 607
(M) "Independent living facility" means any self-care facility or other housing facility designed or used as a residence for elderly persons. An "independent living facility" does not include a residential facility, or that part of a residential facility, that is any of the following:	608 609 610 611 612
(1) A hospital required to be certified by section 3727.02 of the Revised Code;	613 614
(2) A nursing home or residential care facility;	615
(3) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code and used for the program's hospice patients;	616 617 618
(4) <u>A palliative care facility licensed under section 3712.042 of the Revised Code;</u>	619 620
(5) <u>A residential facility licensed by the department of mental health and addiction services under section 5119.34 of</u>	621 622

the Revised Code that provides accommodations, supervision, and 623
personal care services for three to sixteen unrelated adults; 624

~~(5)~~(6) A residential facility licensed by the department 625
of mental health and addiction services under section 5119.34 of 626
the Revised Code that is not a residential facility described in 627
division (M) (4) of this section; 628

~~(6)~~(7) A facility licensed to provide methadone treatment 629
under section 5119.391 of the Revised Code; 630

~~(7)~~(8) A community addiction services provider, as 631
defined in section 5119.01 of the Revised Code; 632

~~(8)~~(9) A residential facility licensed under section 633
5123.19 of the Revised Code or a facility providing services 634
under a contract with the department of developmental 635
disabilities under section 5123.18 of the Revised Code; 636

~~(9)~~(10) A residential facility used as part of a hospital 637
to provide housing for staff of the hospital or students 638
pursuing a course of study at the hospital. 639

Sec. 140.08. (A) Except as otherwise provided in divisions 640
(B) (1) and (2) of this section, all hospital facilities 641
purchased, acquired, constructed, or owned by a public hospital 642
agency, or financed in whole or in part by obligations issued by 643
a public hospital agency, and used, or to be used when 644
completed, as hospital facilities, and the income therefrom, are 645
exempt from all taxation within this state, including ad valorem 646
and excise taxes, notwithstanding any other provisions of law, 647
and hospital agencies are exempt from taxes levied under 648
Chapters 5739. and 5741. of the Revised Code. The obligations 649
issued hereafter under section 133.08, 140.06, or 339.15 of the 650
Revised Code or Section 3 of Article XVIII, Ohio Constitution, 651

to pay costs of hospital facilities or to refund such 652
obligations, and the transfer thereof, and the interest and 653
other income from such obligations, including any profit made on 654
the sale thereof, is free from taxation within the state. 655

(B) (1) Division (A) of this section does not exempt 656
independent living facilities from taxes levied on property or 657
taxes levied under Chapters 5739. and 5741. of the Revised Code. 658
If an independent living facility or part of such facility 659
becomes on or after January 10, 1991, a nursing home, 660
residential care facility, or residential facility described in 661
division (M) ~~(4)~~ (5) of section 140.01 of the Revised Code, that 662
part of the independent living facility that is a nursing home, 663
residential care facility, or residential facility described in 664
division (M) ~~(4)~~ (5) of section 140.01 of the Revised Code is 665
exempt from taxation subject to division (B) (2) of this section 666
on and after the date it becomes a nursing home, residential 667
care facility, or residential facility described in division (M) 668
~~(4)~~ (5) of section 140.01 of the Revised Code. 669

(2) Division (A) of this section exempts nursing homes, 670
residential care facilities, and residential facilities 671
described in division (M) ~~(4)~~ (5) of section 140.01 of the 672
Revised Code from taxes levied on property and taxes levied 673
under Chapters 5739. and 5741. of the Revised Code only until 674
all obligations issued to finance such homes or facilities, or 675
all refunding or series of refundings of those obligations, are 676
redeemed or otherwise retired. 677

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of 678
the Revised Code: 679

(A) "Adult" means a person who is eighteen years of age or 680
older. 681

(B) "Attending physician" means the physician to whom a principal or the family of a principal has assigned primary responsibility for the treatment or care of the principal or, if the responsibility has not been assigned, the physician who has accepted that responsibility.

(C) "Comfort care" means any of the following:

(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;

(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the pain or discomfort of a principal, but not to postpone death.

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a principal, makes one or more determinations that are required to be made by the attending physician, or to be made by the attending physician and one other physician, by an applicable provision of sections 1337.11 to 1337.17 of the Revised Code, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

(E) "Declaration for mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.

(F) "Guardian" means a person appointed by a probate court pursuant to Chapter 2111. of the Revised Code to have the care and management of the person of an incompetent.

(G) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's

physical or mental condition or physical or mental health. 710

(H) "Health care decision" means informed consent, refusal 711
to give informed consent, or withdrawal of informed consent to 712
health care. 713

(I) "Health care facility" means any of the following: 714

(1) A hospital; 715

(2) A hospice care program, pediatric respite care 716
program, or other institution that specializes in comfort care 717
of patients in a terminal condition or in a permanently 718
unconscious state; 719

(3) A palliative care facility; 720

(4) A nursing home; 721

~~(4)~~ (5) A home health agency; 722

~~(5)~~ (6) An intermediate care facility for individuals with 723
intellectual disabilities; 724

~~(6)~~ (7) A regulated community mental health organization. 725

(J) "Health care personnel" means physicians, nurses, 726
physician assistants, emergency medical technicians-basic, 727
emergency medical technicians-intermediate, emergency medical 728
technicians-paramedic, medical technicians, dietitians, other 729
authorized persons acting under the direction of an attending 730
physician, and administrators of health care facilities. 731

(K) "Home health agency" has the same meaning as in 732
section 3701.881 of the Revised Code. 733

(L) "Hospice care program," ~~and~~ "pediatric respite care 734
program," and "palliative care facility" have the same meanings 735
as in section 3712.01 of the Revised Code. 736

(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	737 738
(N) "Hydration" means fluids that are artificially or technologically administered.	739 740
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	741 742
(P) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.	743 744 745
(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a principal, will serve principally to prolong the process of dying.	746 747 748 749
(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.	750 751
(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.	752 753
(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	754 755
(U) "Nutrition" means sustenance that is artificially or technologically administered.	756 757
(V) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following:	758 759 760 761 762 763

(1) Irreversible unawareness of one's being and environment.	764 765
(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.	766 767 768
(W) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.	769 770 771 772
(X) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	773 774 775
(Y) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	776 777
(Z) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.	778 779 780 781
(AA) "Regulated community mental health organization" means a residential facility as defined and licensed under section 5119.34 of the Revised Code or a community mental health services provider as defined in section 5122.01 of the Revised Code.	782 783 784 785 786
(BB) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a principal's attending physician and one other physician who has examined the principal, both of the following	787 788 789 790 791 792

apply:	793
(1) There can be no recovery.	794
(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.	795 796
(CC) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for a breach of contract or another agreement between persons.	797 798 799 800
Sec. 2133.01. Unless the context otherwise requires, as used in sections 2133.01 to 2133.15 of the Revised Code:	801 802
(A) "Adult" means an individual who is eighteen years of age or older.	803 804
(B) "Attending physician" means the physician to whom a declarant or other patient, or the family of a declarant or other patient, has assigned primary responsibility for the treatment or care of the declarant or other patient, or, if the responsibility has not been assigned, the physician who has accepted that responsibility.	805 806 807 808 809 810
(C) "Comfort care" means any of the following:	811
(1) Nutrition when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;	812 813 814
(2) Hydration when administered to diminish the pain or discomfort of a declarant or other patient, but not to postpone the declarant's or other patient's death;	815 816 817
(3) Any other medical or nursing procedure, treatment, intervention, or other measure that is taken to diminish the	818 819

pain or discomfort of a declarant or other patient, but not to 820
postpone the declarant's or other patient's death. 821

(D) "Consulting physician" means a physician who, in 822
conjunction with the attending physician of a declarant or other 823
patient, makes one or more determinations that are required to 824
be made by the attending physician, or to be made by the 825
attending physician and one other physician, by an applicable 826
provision of this chapter, to a reasonable degree of medical 827
certainty and in accordance with reasonable medical standards. 828

(E) "Declarant" means any adult who has executed a 829
declaration in accordance with section 2133.02 of the Revised 830
Code. 831

(F) "Declaration" means a written document executed in 832
accordance with section 2133.02 of the Revised Code. 833

(G) "Durable power of attorney for health care" means a 834
document created pursuant to sections 1337.11 to 1337.17 of the 835
Revised Code. 836

(H) "Guardian" means a person appointed by a probate court 837
pursuant to Chapter 2111. of the Revised Code to have the care 838
and management of the person of an incompetent. 839

(I) "Health care facility" means any of the following: 840

(1) A hospital; 841

(2) A hospice care program, pediatric respite care 842
program, or other institution that specializes in comfort care 843
of patients in a terminal condition or in a permanently 844
unconscious state; 845

(3) A palliative care facility; 846

<u>(4)</u> A nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	847 848
(4) <u>(5)</u> A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;	849 850 851
(5) <u>(6)</u> An intermediate care facility for individuals with intellectual disabilities.	852 853
(J) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities.	854 855 856 857 858 859
(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.	860 861
(L) "Hospice care program," " <u>palliative care facility,</u> " and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code.	862 863 864
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	865 866
(N) "Hydration" means fluids that are artificially or technologically administered.	867 868
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	869 870
(P) "Intermediate care facility for the individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.	871 872 873

(Q) "Life-sustaining treatment" means any medical 874
procedure, treatment, intervention, or other measure that, when 875
administered to a qualified patient or other patient, will serve 876
principally to prolong the process of dying. 877

(R) "Nurse" means a person who is licensed to practice 878
nursing as a registered nurse or to practice practical nursing 879
as a licensed practical nurse pursuant to Chapter 4723. of the 880
Revised Code. 881

(S) "Nursing home" has the same meaning as in section 882
3721.01 of the Revised Code. 883

(T) "Nutrition" means sustenance that is artificially or 884
technologically administered. 885

(U) "Permanently unconscious state" means a state of 886
permanent unconsciousness in a declarant or other patient that, 887
to a reasonable degree of medical certainty as determined in 888
accordance with reasonable medical standards by the declarant's 889
or other patient's attending physician and one other physician 890
who has examined the declarant or other patient, is 891
characterized by both of the following: 892

(1) Irreversible unawareness of one's being and 893
environment. 894

(2) Total loss of cerebral cortical functioning, resulting 895
in the declarant or other patient having no capacity to 896
experience pain or suffering. 897

(V) "Person" has the same meaning as in section 1.59 of 898
the Revised Code and additionally includes political 899
subdivisions and governmental agencies, boards, commissions, 900
departments, institutions, offices, and other instrumentalities. 901

(W) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(X) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.

(Y) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.

(Z) "Qualified patient" means an adult who has executed a declaration and has been determined to be in a terminal condition or in a permanently unconscious state.

(AA) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury from which, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by a declarant's or other patient's attending physician and one other physician who has examined the declarant or other patient, both of the following apply:

(1) There can be no recovery.

(2) Death is likely to occur within a relatively short time if life-sustaining treatment is not administered.

(BB) "Tort action" means a civil action for damages for injury, death, or loss to person or property, other than a civil action for damages for breach of a contract or another agreement between persons.

Sec. 2317.54. No hospital, home health agency, ambulatory surgical facility, palliative care facility, or provider of a

hospice care program or pediatric respite care program shall be 930
held liable for a physician's failure to obtain an informed 931
consent from the physician's patient prior to a surgical or 932
medical procedure or course of procedures, unless the physician 933
is an employee of the hospital, home health agency, ambulatory 934
surgical facility, palliative care facility, or provider of a 935
hospice care program or pediatric respite care program. 936

Written consent to a surgical or medical procedure or 937
course of procedures shall, to the extent that it fulfills all 938
the requirements in divisions (A), (B), and (C) of this section, 939
be presumed to be valid and effective, in the absence of proof 940
by a preponderance of the evidence that the person who sought 941
such consent was not acting in good faith, or that the execution 942
of the consent was induced by fraudulent misrepresentation of 943
material facts, or that the person executing the consent was not 944
able to communicate effectively in spoken and written English or 945
any other language in which the consent is written. Except as 946
herein provided, no evidence shall be admissible to impeach, 947
modify, or limit the authorization for performance of the 948
procedure or procedures set forth in such written consent. 949

(A) The consent sets forth in general terms the nature and 950
purpose of the procedure or procedures, and what the procedures 951
are expected to accomplish, together with the reasonably known 952
risks, and, except in emergency situations, sets forth the names 953
of the physicians who shall perform the intended surgical 954
procedures. 955

(B) The person making the consent acknowledges that such 956
disclosure of information has been made and that all questions 957
asked about the procedure or procedures have been answered in a 958
satisfactory manner. 959

(C) The consent is signed by the patient for whom the procedure is to be performed, or, if the patient for any reason including, but not limited to, competence, minority, or the fact that, at the latest time that the consent is needed, the patient is under the influence of alcohol, hallucinogens, or drugs, lacks legal capacity to consent, by a person who has legal authority to consent on behalf of such patient in such circumstances, including either of the following:

(1) The parent, whether the parent is an adult or a minor, of the parent's minor child;

(2) An adult whom the parent of the minor child has given written authorization to consent to a surgical or medical procedure or course of procedures for the parent's minor child.

Any use of a consent form that fulfills the requirements stated in divisions (A), (B), and (C) of this section has no effect on the common law rights and liabilities, including the right of a physician to obtain the oral or implied consent of a patient to a medical procedure, that may exist as between physicians and patients on July 28, 1975.

As used in this section the term "hospital" has the same meaning as in section 2305.113 of the Revised Code; "home health agency" has the same meaning as in section 5101.61 of the Revised Code; "ambulatory surgical facility" has the meaning as in division (A) of section 3702.30 of the Revised Code; and "hospice care program," "palliative care facility," and "pediatric respite care program" have the same meanings as in section 3712.01 of the Revised Code. The provisions of this division apply to hospitals, doctors of medicine, doctors of osteopathic medicine, and doctors of podiatric medicine.

Sec. 3701.881. (A) As used in this section:	989
(1) "Applicant" means a person who is under final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual or is referred to a home health agency by an employment service for such a position.	990 991 992 993 994
(2) "Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code.	995 996
(3) "Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.	997 998
(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.	999 1000
(5) "Direct care" means any of the following:	1001
(a) Any service identified in divisions (A)(8)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home;	1002 1003 1004
(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;	1005 1006 1007 1008
(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.	1009 1010 1011
(6) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.	1012 1013 1014
(7) "Employee" means a person employed by a home health	1015

agency in a full-time, part-time, or temporary position that 1016
involves providing direct care to an individual and a person who 1017
works in such a position due to being referred to a home health 1018
agency by an employment service. 1019

(8) "Home health agency" means a person or government 1020
entity, other than a nursing home, residential care facility, 1021
palliative care facility, hospice care program, or pediatric 1022
respite care program, that has the primary function of providing 1023
any of the following services to a patient at a place of 1024
residence used as the patient's home: 1025

(a) Skilled nursing care; 1026

(b) Physical therapy; 1027

(c) Speech-language pathology; 1028

(d) Occupational therapy; 1029

(e) Medical social services; 1030

(f) Home health aide services. 1031

(9) "Home health aide services" means any of the following 1032
services provided by an employee of a home health agency: 1033

(a) Hands-on bathing or assistance with a tub bath or 1034
shower; 1035

(b) Assistance with dressing, ambulation, and toileting; 1036

(c) Catheter care but not insertion; 1037

(d) Meal preparation and feeding. 1038

(10) "Hospice care program," "palliative care facility," 1039
and "pediatric respite care program" have the same meanings as 1040
in section 3712.01 of the Revised Code. 1041

(11) "Medical social services" means services provided by 1042
a social worker under the direction of a patient's attending 1043
physician. 1044

(12) "Minor drug possession offense" has the same meaning 1045
as in section 2925.01 of the Revised Code. 1046

(13) "Nursing home," "residential care facility," and 1047
"skilled nursing care" have the same meanings as in section 1048
3721.01 of the Revised Code. 1049

(14) "Occupational therapy" has the same meaning as in 1050
section 4755.04 of the Revised Code. 1051

(15) "Physical therapy" has the same meaning as in section 1052
4755.40 of the Revised Code. 1053

(16) "Social worker" means a person licensed under Chapter 1054
4757. of the Revised Code to practice as a social worker or 1055
independent social worker. 1056

(17) "Speech-language pathology" has the same meaning as 1057
in section 4753.01 of the Revised Code. 1058

(18) "Waiver agency" has the same meaning as in section 1059
5164.342 of the Revised Code. 1060

(B) No home health agency shall employ an applicant or 1061
continue to employ an employee in a position that involves 1062
providing direct care to an individual if any of the following 1063
apply: 1064

(1) A review of the databases listed in division (D) of 1065
this section reveals any of the following: 1066

(a) That the applicant or employee is included in one or 1067
more of the databases listed in divisions (D) (1) to (5) of this 1068

section; 1069

(b) That there is in the state nurse aide registry 1070
established under section 3721.32 of the Revised Code a 1071
statement detailing findings by the director of health that the 1072
applicant or employee neglected or abused a long-term care 1073
facility or residential care facility resident or 1074
misappropriated property of such a resident; 1075

(c) That the applicant or employee is included in one or 1076
more of the databases, if any, specified in rules adopted under 1077
this section and the rules prohibit the home health agency from 1078
employing an applicant or continuing to employ an employee 1079
included in such a database in a position that involves 1080
providing direct care to an individual. 1081

(2) After the applicant or employee is provided, pursuant 1082
to division (E) (2) (a) of this section, a copy of the form 1083
prescribed pursuant to division (C) (1) of section 109.572 of the 1084
Revised Code and the standard impression sheet prescribed 1085
pursuant to division (C) (2) of that section, the applicant or 1086
employee fails to complete the form or provide the applicant's 1087
or employee's fingerprint impressions on the standard impression 1088
sheet. 1089

(3) Except as provided in rules adopted under this 1090
section, the applicant or employee is found by a criminal 1091
records check required by this section to have been convicted 1092
of, pleaded guilty to, or been found eligible for intervention 1093
in lieu of conviction for a disqualifying offense. 1094

(C) Except as provided by division (F) of this section, 1095
the chief administrator of a home health agency shall inform 1096
each applicant of both of the following at the time of the 1097

applicant's initial application for employment or referral to 1098
the home health agency by an employment service for a position 1099
that involves providing direct care to an individual: 1100

(1) That a review of the databases listed in division (D) 1101
of this section will be conducted to determine whether the home 1102
health agency is prohibited by division (B) (1) of this section 1103
from employing the applicant in the position; 1104

(2) That, unless the database review reveals that the 1105
applicant may not be employed in the position, a criminal 1106
records check of the applicant will be conducted and the 1107
applicant is required to provide a set of the applicant's 1108
fingerprint impressions as part of the criminal records check. 1109

(D) As a condition of employing any applicant in a 1110
position that involves providing direct care to an individual, 1111
the chief administrator of a home health agency shall conduct a 1112
database review of the applicant in accordance with rules 1113
adopted under this section. If rules adopted under this section 1114
so require, the chief administrator of a home health agency 1115
shall conduct a database review of an employee in accordance 1116
with the rules as a condition of continuing to employ the 1117
employee in a position that involves providing direct care to an 1118
individual. However, the chief administrator is not required to 1119
conduct a database review of an applicant or employee if 1120
division (F) of this section applies. A database review shall 1121
determine whether the applicant or employee is included in any 1122
of the following: 1123

(1) The excluded parties list system that is maintained by 1124
the United States general services administration pursuant to 1125
subpart 9.4 of the federal acquisition regulation and available 1126
at the federal web site known as the system for award 1127

management;	1128
(2) The list of excluded individuals and entities	1129
maintained by the office of inspector general in the United	1130
States department of health and human services pursuant to the	1131
"Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7	1132
and 1320c-5;	1133
(3) The registry of MR/DD employees established under	1134
section 5123.52 of the Revised Code;	1135
(4) The internet-based sex offender and child-victim	1136
offender database established under division (A) (11) of section	1137
2950.13 of the Revised Code;	1138
(5) The internet-based database of inmates established	1139
under section 5120.66 of the Revised Code;	1140
(6) The state nurse aide registry established under	1141
section 3721.32 of the Revised Code;	1142
(7) Any other database, if any, specified in rules adopted	1143
under this section.	1144
(E) (1) As a condition of employing any applicant in a	1145
position that involves providing direct care to an individual,	1146
the chief administrator of a home health agency shall request	1147
the superintendent of the bureau of criminal identification and	1148
investigation to conduct a criminal records check of the	1149
applicant. If rules adopted under this section so require, the	1150
chief administrator of a home health agency shall request the	1151
superintendent to conduct a criminal records check of an	1152
employee at times specified in the rules as a condition of	1153
continuing to employ the employee in a position that involves	1154
providing direct care to an individual. However, the chief	1155
administrator is not required to request the criminal records	1156

check of the applicant or the employee if division (F) of this 1157
section applies or the home health agency is prohibited by 1158
division (B)(1) of this section from employing the applicant or 1159
continuing to employ the employee in a position that involves 1160
providing direct care to an individual. If an applicant or 1161
employee for whom a criminal records check request is required 1162
by this section does not present proof of having been a resident 1163
of this state for the five-year period immediately prior to the 1164
date upon which the criminal records check is requested or does 1165
not provide evidence that within that five-year period the 1166
superintendent has requested information about the applicant 1167
from the federal bureau of investigation in a criminal records 1168
check, the chief administrator shall request that the 1169
superintendent obtain information from the federal bureau of 1170
investigation as a part of the criminal records check. Even if 1171
an applicant or employee for whom a criminal records check 1172
request is required by this section presents proof that the 1173
applicant or employee has been a resident of this state for that 1174
five-year period, the chief administrator may request that the 1175
superintendent include information from the federal bureau of 1176
investigation in the criminal records check. 1177

(2) The chief administrator shall do all of the following: 1178

(a) Provide to each applicant and employee for whom a 1179
criminal records check request is required by this section a 1180
copy of the form prescribed pursuant to division (C)(1) of 1181
section 109.572 of the Revised Code and a standard impression 1182
sheet prescribed pursuant to division (C)(2) of that section; 1183

(b) Obtain the completed form and standard impression 1184
sheet from each applicant and employee; 1185

(c) Forward the completed form and standard impression 1186

sheet to the superintendent at the time the chief administrator 1187
requests the criminal records check. 1188

(3) A home health agency shall pay to the bureau of 1189
criminal identification and investigation the fee prescribed 1190
pursuant to division (C) (3) of section 109.572 of the Revised 1191
Code for each criminal records check the agency requests under 1192
this section. A home health agency may charge an applicant a fee 1193
not exceeding the amount the agency pays to the bureau under 1194
this section if both of the following apply: 1195

(a) The home health agency notifies the applicant at the 1196
time of initial application for employment of the amount of the 1197
fee and that, unless the fee is paid, the applicant will not be 1198
considered for employment. 1199

(b) The medicaid program does not reimburse the home 1200
health agency for the fee it pays to the bureau under this 1201
section. 1202

(F) Divisions (C) to (E) of this section do not apply with 1203
regard to an applicant or employee if the applicant or employee 1204
is referred to a home health agency by an employment service 1205
that supplies full-time, part-time, or temporary staff for 1206
positions that involve providing direct care to an individual 1207
and both of the following apply: 1208

(1) The chief administrator of the home health agency 1209
receives from the employment service confirmation that a review 1210
of the databases listed in division (D) of this section was 1211
conducted with regard to the applicant or employee. 1212

(2) The chief administrator of the home health agency 1213
receives from the employment service, applicant, or employee a 1214
report of the results of a criminal records check of the 1215

applicant or employee that has been conducted by the 1216
superintendent within the one-year period immediately preceding 1217
the following: 1218

(a) In the case of an applicant, the date of the 1219
applicant's referral by the employment service to the home 1220
health agency; 1221

(b) In the case of an employee, the date by which the home 1222
health agency would otherwise have to request a criminal records 1223
check of the employee under division (E) of this section. 1224

(G) (1) A home health agency may employ conditionally an 1225
applicant for whom a criminal records check request is required 1226
by this section before obtaining the results of the criminal 1227
records check if the agency is not prohibited by division (B) of 1228
this section from employing the applicant in a position that 1229
involves providing direct care to an individual and either of 1230
the following applies: 1231

(a) The chief administrator of the home health agency 1232
requests the criminal records check in accordance with division 1233
(E) of this section not later than five business days after the 1234
applicant begins conditional employment. 1235

(b) The applicant is referred to the home health agency by 1236
an employment service, the employment service or the applicant 1237
provides the chief administrator of the agency a letter that is 1238
on the letterhead of the employment service, the letter is dated 1239
and signed by a supervisor or another designated official of the 1240
employment service, and the letter states all of the following: 1241

(i) That the employment service has requested the 1242
superintendent to conduct a criminal records check regarding the 1243
applicant; 1244

(ii) That the requested criminal records check is to 1245
include a determination of whether the applicant has been 1246
convicted of, pleaded guilty to, or been found eligible for 1247
intervention in lieu of conviction for a disqualifying offense; 1248

(iii) That the employment service has not received the 1249
results of the criminal records check as of the date set forth 1250
on the letter; 1251

(iv) That the employment service promptly will send a copy 1252
of the results of the criminal records check to the chief 1253
administrator of the home health agency when the employment 1254
service receives the results. 1255

(2) If a home health agency employs an applicant 1256
conditionally pursuant to division (G) (1) (b) of this section, 1257
the employment service, on its receipt of the results of the 1258
criminal records check, promptly shall send a copy of the 1259
results to the chief administrator of the agency. 1260

(3) A home health agency that employs an applicant 1261
conditionally pursuant to division (G) (1) (a) or (b) of this 1262
section shall terminate the applicant's employment if the 1263
results of the criminal records check, other than the results of 1264
any request for information from the federal bureau of 1265
investigation, are not obtained within the period ending sixty 1266
days after the date the request for the criminal records check 1267
is made. Regardless of when the results of the criminal records 1268
check are obtained, if the results indicate that the applicant 1269
has been convicted of, pleaded guilty to, or been found eligible 1270
for intervention in lieu of conviction for a disqualifying 1271
offense, the home health agency shall terminate the applicant's 1272
employment unless circumstances specified in rules adopted under 1273
this section that permit the agency to employ the applicant 1274

exist and the agency chooses to employ the applicant. 1275

Termination of employment under this division shall be 1276

considered just cause for discharge for purposes of division (D) 1277

(2) of section 4141.29 of the Revised Code if the applicant 1278

makes any attempt to deceive the home health agency about the 1279

applicant's criminal record. 1280

(H) The report of any criminal records check conducted by 1281

the bureau of criminal identification and investigation in 1282

accordance with section 109.572 of the Revised Code and pursuant 1283

to a request made under this section is not a public record for 1284

the purposes of section 149.43 of the Revised Code and shall not 1285

be made available to any person other than the following: 1286

(1) The applicant or employee who is the subject of the 1287

criminal records check or the applicant's or employee's 1288

representative; 1289

(2) The home health agency requesting the criminal records 1290

check or its representative; 1291

(3) The administrator of any other facility, agency, or 1292

program that provides direct care to individuals that is owned 1293

or operated by the same entity that owns or operates the home 1294

health agency that requested the criminal records check; 1295

(4) The employment service that requested the criminal 1296

records check; 1297

(5) The director of health and the staff of the department 1298

of health who monitor a home health agency's compliance with 1299

this section; 1300

(6) The director of aging or the director's designee if 1301

either of the following apply: 1302

(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a community-based long-term care provider or community-based long-term care subcontractor;

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a home health agency that also is a community-based long-term care provider or community-based long-term care subcontractor.

(7) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if either of the following apply:

(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a waiver agency;

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a home health agency that also is a waiver agency.

(8) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program.

(I) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or

property caused by an applicant or employee who a home health 1331
agency employs in a position that involves providing direct care 1332
to an individual, all of the following shall apply: 1333

(1) If the home health agency employed the applicant or 1334
employee in good faith and reasonable reliance on the report of 1335
a criminal records check requested under this section, the 1336
agency shall not be found negligent solely because of its 1337
reliance on the report, even if the information in the report is 1338
determined later to have been incomplete or inaccurate. 1339

(2) If the home health agency employed the applicant in 1340
good faith on a conditional basis pursuant to division (G) of 1341
this section, the agency shall not be found negligent solely 1342
because it employed the applicant prior to receiving the report 1343
of a criminal records check requested under this section. 1344

(3) If the home health agency in good faith employed the 1345
applicant or employee according to the personal character 1346
standards established in rules adopted under this section, the 1347
agency shall not be found negligent solely because the applicant 1348
or employee had been convicted of, pleaded guilty to, or been 1349
found eligible for intervention in lieu of conviction for a 1350
disqualifying offense. 1351

(J) The director of health shall adopt rules in accordance 1352
with Chapter 119. of the Revised Code to implement this section. 1353

(1) The rules may do the following: 1354

(a) Require employees to undergo database reviews and 1355
criminal records checks under this section; 1356

(b) If the rules require employees to undergo database 1357
reviews and criminal records checks under this section, exempt 1358
one or more classes of employees from the requirements; 1359

(c) For the purpose of division (D) (7) of this section, 1360
specify other databases that are to be checked as part of a 1361
database review conducted under this section. 1362

(2) The rules shall specify all of the following: 1363

(a) The procedures for conducting database reviews under 1364
this section; 1365

(b) If the rules require employees to undergo database 1366
reviews and criminal records checks under this section, the 1367
times at which the database reviews and criminal records checks 1368
are to be conducted; 1369

(c) If the rules specify other databases to be checked as 1370
part of the database reviews, the circumstances under which a 1371
home health agency is prohibited from employing an applicant or 1372
continuing to employ an employee who is found by a database 1373
review to be included in one or more of those databases; 1374

(d) Circumstances under which a home health agency may 1375
employ an applicant or employee who is found by a criminal 1376
records check required by this section to have been convicted 1377
of, pleaded guilty to, or been found eligible for intervention 1378
in lieu of conviction for a disqualifying offense but meets 1379
personal character standards. 1380

Sec. 3712.01. As used in this chapter: 1381

(A) "Hospice care program" means a coordinated program of 1382
home, outpatient, and inpatient care and services that is 1383
operated by a person or public agency and that provides the 1384
following care and services to hospice patients, including 1385
services as indicated below to hospice patients' families, 1386
through a medically directed interdisciplinary team, under 1387
interdisciplinary plans of care established pursuant to section 1388

3712.06 of the Revised Code, in order to meet the physical,	1389
psychological, social, spiritual, and other special needs that	1390
are experienced during the final stages of illness, dying, and	1391
bereavement:	1392
(1) Nursing care by or under the supervision of a	1393
registered nurse;	1394
(2) Physical, occupational, or speech or language therapy,	1395
unless waived by the department of health pursuant to rules	1396
adopted under division (A) of section 3712.03 of the Revised	1397
Code;	1398
(3) Medical social services by a social worker under the	1399
direction of a physician;	1400
(4) Services of a home health aide;	1401
(5) Medical supplies, including drugs and biologicals, and	1402
the use of medical appliances;	1403
(6) Physician's services;	1404
(7) Short-term inpatient care, including both palliative	1405
and respite care and procedures;	1406
(8) Counseling for hospice patients and hospice patients'	1407
families;	1408
(9) Services of volunteers under the direction of the	1409
provider of the hospice care program;	1410
(10) Bereavement services for hospice patients' families.	1411
"Hospice care program" does not include a <u>palliative care</u>	1412
<u>facility or pediatric</u> respite care program.	1413
(B) "Hospice patient" means a patient, other than a	1414
pediatric respite care patient, who has been diagnosed as	1415

terminally ill, has an anticipated life expectancy of six months 1416
or less, and has voluntarily requested and is receiving care 1417
from a person or public agency licensed under this chapter to 1418
provide a hospice care program. 1419

(C) "Hospice patient's family" means a hospice patient's 1420
immediate family members, including a spouse, brother, sister, 1421
child, or parent, and any other relative or individual who has 1422
significant personal ties to the patient and who is designated 1423
as a member of the patient's family by mutual agreement of the 1424
patient, the relative or individual, and the patient's 1425
interdisciplinary team. 1426

(D) "Interdisciplinary team" means a working unit composed 1427
of professional and lay persons that includes at least a 1428
physician, a registered nurse, a social worker, a member of the 1429
clergy or a counselor, and a volunteer. 1430

(E) "Palliative care" means treatment for a patient with a 1431
serious, chronic, or life-threatening illness directed at 1432
controlling pain, relieving other symptoms, and enhancing the 1433
quality of life of the patient and the patient's family, 1434
particularly with psychosocial support and medical decision 1435
guidance, rather than treatment for the purpose of cure. Nothing 1436
in this ~~section~~ chapter shall be interpreted to mean that 1437
palliative care can be provided only in a palliative care 1438
facility or as a component of a hospice care program or 1439
pediatric respite care program. 1440

(F) "Physician" means a person authorized under Chapter 1441
4731. of the Revised Code to practice medicine and surgery or 1442
osteopathic medicine and surgery. 1443

(G) "Attending physician" means the physician identified 1444

by the hospice patient, pediatric respite care patient, hospice 1445
patient's family, or pediatric respite care patient's family as 1446
having primary responsibility for the medical care of the 1447
hospice patient or pediatric respite care patient. 1448

(H) "Registered nurse" means a person registered under 1449
Chapter 4723. of the Revised Code to practice professional 1450
nursing. 1451

(I) "Social worker" means a person licensed under Chapter 1452
4757. of the Revised Code to practice as a social worker or 1453
independent social worker. 1454

(J) "Pediatric respite care program" means a program 1455
operated by a person or public agency that provides inpatient 1456
respite care and related services, including all of the 1457
following services, only to pediatric respite care patients and, 1458
as indicated below, pediatric respite care patients' families, 1459
in order to meet the physical, psychological, social, spiritual, 1460
and other special needs that are experienced during or leading 1461
up to the final stages of illness, dying, and bereavement: 1462

(1) Short-term inpatient care, including both palliative 1463
and respite care and procedures; 1464

(2) Nursing care by or under the supervision of a 1465
registered nurse; 1466

(3) Physician's services; 1467

(4) Medical social services by a social worker under the 1468
direction of a physician; 1469

(5) Medical supplies, including drugs and biologicals, and 1470
the use of medical appliances; 1471

(6) Counseling for pediatric respite care patients and 1472

pediatric respite care patients' families;	1473
(7) Bereavement services for respite care patients' families.	1474
	1475
"Pediatric respite care program" does not include a hospice care program <u>or palliative care facility</u> .	1476
	1477
(K) "Pediatric respite care patient" means a patient, other than a hospice patient <u>or palliative care patient</u> , who is less than twenty-seven years of age and to whom all of the following conditions apply:	1478
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	1481
(1) The patient has been diagnosed with a disease or condition that is life-threatening and is expected to shorten the life expectancy that would have applied to the patient absent the patient's diagnosis, regardless of whether the patient is terminally ill.	1482
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	1485
	1486
(2) The diagnosis described in division (K) (1) of this section occurred while the patient was less than eighteen years of age.	1487
	1488
	1489
(3) The patient has voluntarily requested and is receiving care from a person or public agency licensed under this chapter to provide a pediatric respite care program.	1490
	1491
	1492
(L) "Pediatric respite care patient's family" means a pediatric respite care patient's 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.	1493
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	1499
<u>(M) "Palliative care facility" means a facility operated</u>	1500

by a person or public agency that provides palliative care 1501
twenty-four hours a day and seven days a week, the medical 1502
components of which are under the direction of a physician; 1503

(N) "Palliative care patient" means a patient who has 1504
voluntarily requested and is receiving care from a person or 1505
public agency licensed under this chapter to operate a 1506
palliative care facility. 1507

Sec. 3712.032. (A) In accordance with Chapter 119. of the 1508
Revised Code, the director of health shall adopt rules that do 1509
all of the following: 1510

(1) Subject to division (B) (1) of this section, provide 1511
for the licensing of persons or public agencies operating 1512
palliative care facilities within this state by the department 1513
of health and for the suspension and revocation of licenses; 1514

(2) Establish a license fee and license renewal fee for 1515
palliative care facilities, neither of which shall, except as 1516
provided in division (C) of this section, exceed six hundred 1517
dollars. The fees shall cover the three-year period during which 1518
an existing license is valid as provided in division (B) of 1519
section 3712.042 of the Revised Code. 1520

(3) Establish an inspection fee not to exceed, except as 1521
provided in division (C) of this section, one thousand seven 1522
hundred fifty dollars; 1523

(4) Subject to division (B) (2) of this section, establish 1524
requirements for palliative care facilities and services; 1525

(5) Provide for the granting of licenses to operate 1526
palliative care facilities to persons and public agencies that 1527
are accredited or certified to operate such facilities by an 1528
entity whose standards for accreditation or certification equal 1529

or exceed those provided for licensure under this chapter and 1530
rules adopted under it; 1531

(6) Establish metrics to measure the quality of care 1532
provided by palliative care facilities; 1533

(7) Establish interpretive guidelines for each rule 1534
adopted under divisions (A)(1) to (6) of this section. 1535

(B)(1) The rules adopted under division (A)(1) of this 1536
section shall require a palliative care facility to be inspected 1537
as a condition of initial licensure and not less than every 1538
three years thereafter while the license is maintained. 1539

(2) Both of the following apply to the rules adopted under 1540
division (A)(4) of this section: 1541

(a) The rules shall be consistent with standards for the 1542
operation of palliative care facilities and the provision of 1543
palliative care services specified by the center to advance 1544
palliative care (CAPC) that is affiliated with the Icahn school 1545
of medicine at Mount Sinai medical center in New York City, New 1546
York. 1547

(b) The rules shall specify the number of qualified staff, 1548
including physicians, registered nurses, social workers, and 1549
spiritual or other counselors, that must be on duty twenty-four 1550
hours a day and seven days a week. The number specified shall be 1551
based on the number of patients the facility is able to admit 1552
and patient acuity levels. 1553

(C) Subject to the approval of the controlling board, the 1554
director of health may establish fees in excess of the maximum 1555
amounts specified in this section, provided that the fees do not 1556
exceed those amounts by greater than fifty per cent. 1557

(D) The department of health shall: 1558

(1) Grant, suspend, and revoke licenses for palliative 1559
care facilities in accordance with this chapter and rules 1560
adopted under it; 1561

(2) Make such inspections as are necessary, including 1562
those required by rules adopted in accordance with division (B) 1563
(1) of this section, to determine whether palliative care 1564
facilities and services meet the requirements of this chapter 1565
and rules adopted under it; and 1566

(3) Implement and enforce provisions of this chapter and 1567
rules adopted under it as such provisions apply to palliative 1568
care facilities. 1569

Sec. 3712.042. Every person or public agency that proposes 1570
to operate a palliative care facility shall apply to the 1571
department of health for a license. Application shall be made on 1572
forms prescribed and provided by the department, shall include 1573
such information as the department requires, and shall be 1574
accompanied by the license fee established in rules adopted by 1575
the director of health under division (A) of section 3712.032 of 1576
the Revised Code. 1577

The department shall grant a license to the applicant if 1578
the applicant is in compliance with this chapter and rules 1579
adopted under it. 1580

(B) A license granted under this section shall be valid 1581
for three years. Application for renewal of a license shall be 1582
made at least ninety days before the expiration of the license 1583
in the same manner as for an initial license. The department 1584
shall renew the license if the applicant meets the requirements 1585
of this chapter and rules adopted under it. 1586

(C) Subject to Chapter 119. of the Revised Code, the 1587
department may suspend or revoke a license if the licensee made 1588
any material representation in the application for the license 1589
or no longer meets the requirements of this chapter or rules 1590
adopted under it. 1591

Sec. 3712.052. (A) As used in this division, "person" does 1592
not include a member of an interdisciplinary team, as defined in 1593
section 3712.01 of the Revised Code, or any individual who is 1594
employed by a person or public agency licensed under section 1595
3712.042 of the Revised Code. 1596

Except as provided in division (B) of this section, no 1597
person or public agency, other than a person or public agency 1598
licensed pursuant to section 3712.042 of the Revised Code, shall 1599
hold itself as operating a palliative care facility or operate a 1600
palliative care facility. 1601

(B) Division (A) of this section does not apply to any of 1602
the following: 1603

(1) A hospital; 1604

(2) A nursing home or residential care facility, as those 1605
terms are defined in section 3721.01 of the Revised Code; 1606

(3) A home health agency; 1607

(4) A regional, state, or national nonprofit organization 1608
whose members are operators of palliative care facilities, 1609
individuals interested in palliative care facilities, or both, 1610
as long as the organization does not provide or represent that 1611
it operates a palliative care facility; 1612

(5) A person or government entity certified under section 1613
5123.161 of the Revised Code as a supported living provider; 1614

<u>(6) A residential facility licensed under section 5123.19</u>	1615
<u>of the Revised Code;</u>	1616
<u>(7) A respite care home certified under section 5126.05 of</u>	1617
<u>the Revised Code;</u>	1618
<u>(8) A person providing respite care under a family support</u>	1619
<u>services program established under section 5126.11 of the</u>	1620
<u>Revised Code;</u>	1621
<u>(9) A person or government entity providing respite care</u>	1622
<u>under a medicaid waiver component that the department of</u>	1623
<u>developmental disabilities administers pursuant to section</u>	1624
<u>5166.21 of the Revised Code;</u>	1625
<u>(10) A hospice care program licensed under section 3712.04</u>	1626
<u>of the Revised Code;</u>	1627
<u>(11) A terminal care facility for the homeless that has</u>	1628
<u>entered into an agreement under section 3712.07 of the Revised</u>	1629
<u>Code;</u>	1630
<u>(12) A pediatric respite care program licensed under</u>	1631
<u>section 3712.041 of the Revised Code.</u>	1632
<u>(C) The department of health shall petition the court of</u>	1633
<u>common pleas of any county in which a person or public agency,</u>	1634
<u>without a license granted under section 3712.042 of the Revised</u>	1635
<u>Code, is holding itself out as operating a palliative care</u>	1636
<u>facility, is operating a palliative care facility, or is</u>	1637
<u>representing a health program or agency as a palliative care</u>	1638
<u>facility, for an order enjoining that person or public agency</u>	1639
<u>from conducting those activities without a license. The court</u>	1640
<u>has jurisdiction to grant injunctive relief on a showing that</u>	1641
<u>the respondent named in the petition is conducting those</u>	1642
<u>activities without a license.</u>	1643

Any person or public agency may request the department to 1644
petition the court for injunctive relief under this division, 1645
and the department shall do so if it determines that the person 1646
or public agency named in the request is violating division (A) 1647
of this section. 1648

Sec. 3712.063. Notwithstanding any provision of this 1649
chapter specifying that a hospice care program may provide care 1650
and services only to hospice patients, a hospice care program 1651
licensed under section 3712.04 of the Revised Code that operates 1652
an inpatient facility or unit in which services described in 1653
division (A) of section 3712.01 of the Revised Code are provided 1654
may provide palliative care to any patient. 1655

Sec. 3712.09. (A) As used in this section: 1656

(1) "Applicant" means a person who is under final 1657
consideration for employment with a hospice care program ~~or,~~ 1658
pediatric respite care program, or palliative care facility in a 1659
full-time, part-time, or temporary position that involves 1660
providing direct care to an older adult ~~or,~~ pediatric respite 1661
care patient, or palliative care patient. "Applicant" does not 1662
include a person who provides direct care as a volunteer without 1663
receiving or expecting to receive any form of remuneration other 1664
than reimbursement for actual expenses. 1665

(2) "Criminal records check" has the same meaning as in 1666
section 109.572 of the Revised Code. 1667

(3) "Older adult" means a person age sixty or older. 1668

(B) (1) Except as provided in division (I) of this section, 1669
the chief administrator of a hospice care program ~~or,~~ pediatric 1670
respite care program, or palliative care facility shall request 1671
that the superintendent of the bureau of criminal identification 1672

and investigation conduct a criminal records check of each 1673
applicant. If an applicant for whom a criminal records check 1674
request is required under this division does not present proof 1675
of having been a resident of this state for the five-year period 1676
immediately prior to the date the criminal records check is 1677
requested or provide evidence that within that five-year period 1678
the superintendent has requested information about the applicant 1679
from the federal bureau of investigation in a criminal records 1680
check, the chief administrator shall request that the 1681
superintendent obtain information from the federal bureau of 1682
investigation as part of the criminal records check of the 1683
applicant. Even if an applicant for whom a criminal records 1684
check request is required under this division presents proof of 1685
having been a resident of this state for the five-year period, 1686
the chief administrator may request that the superintendent 1687
include information from the federal bureau of investigation in 1688
the criminal records check. 1689

(2) A person required by division (B) (1) of this section 1690
to request a criminal records check shall do both of the 1691
following: 1692

(a) Provide to each applicant for whom a criminal records 1693
check request is required under that division a copy of the form 1694
prescribed pursuant to division (C) (1) of section 109.572 of the 1695
Revised Code and a standard fingerprint impression sheet 1696
prescribed pursuant to division (C) (2) of that section, and 1697
obtain the completed form and impression sheet from the 1698
applicant; 1699

(b) Forward the completed form and impression sheet to the 1700
superintendent of the bureau of criminal identification and 1701
investigation. 1702

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

(C) (1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C) (2) of this section, no hospice care program ~~or~~, pediatric respite care program, or palliative care facility shall employ a person in a position that involves providing direct care to an older adult ~~or~~, pediatric respite care patient, or palliative care patient if the person has been convicted of or pleaded guilty to any of the following:

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

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

(2) (a) A hospice care program ~~or~~, pediatric respite care program, or palliative care facility may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the

results of a criminal records check regarding the individual, 1733
provided that the program or facility shall request a criminal 1734
records check regarding the individual in accordance with 1735
division (B) (1) of this section not later than five business 1736
days after the individual begins conditional employment. In the 1737
circumstances described in division (I) (2) of this section, a 1738
hospice care program ~~or~~, pediatric respite care program, or 1739
palliative care facility may employ conditionally an applicant 1740
who has been referred to the ~~hospice care program or pediatric~~ 1741
~~respite care program~~ facility by an employment service that 1742
supplies full-time, part-time, or temporary staff for positions 1743
involving the direct care of older adults ~~or~~, pediatric respite 1744
care patients, or palliative care patients and for whom, 1745
pursuant to that division, a criminal records check is not 1746
required under division (B) of this section. 1747

(b) A hospice care program ~~or~~, pediatric respite care 1748
program, or palliative care facility that employs an individual 1749
conditionally under authority of division (C) (2) (a) of this 1750
section shall terminate the individual's employment if the 1751
results of the criminal records check requested under division 1752
(B) of this section or described in division (I) (2) of this 1753
section, other than the results of any request for information 1754
from the federal bureau of investigation, are not obtained 1755
within the period ending thirty days after the date the request 1756
is made. Regardless of when the results of the criminal records 1757
check are obtained, if the results indicate that the individual 1758
has been convicted of or pleaded guilty to any of the offenses 1759
listed or described in division (C) (1) of this section, the 1760
program or facility shall terminate the individual's employment 1761
unless the program or facility chooses to employ the individual 1762
pursuant to division (F) of this section. Termination of 1763

employment under this division shall be considered just cause 1764
for discharge for purposes of division (D) (2) of section 4141.29 1765
of the Revised Code if the individual makes any attempt to 1766
deceive the program about the individual's criminal record. 1767

(D) (1) Each hospice care program ~~or~~, pediatric respite 1768
care program, or palliative care facility shall pay to the 1769
bureau of criminal identification and investigation the fee 1770
prescribed pursuant to division (C) (3) of section 109.572 of the 1771
Revised Code for each criminal records check conducted pursuant 1772
to a request made under division (B) of this section. 1773

(2) A hospice care program ~~or~~, pediatric respite care 1774
program, or palliative care facility may charge an applicant a 1775
fee not exceeding the amount the program pays under division (D) 1776
(1) of this section. A program or facility may collect a fee 1777
only if both of the following apply: 1778

(a) The program or facility notifies the person at the 1779
time of initial application for employment of the amount of the 1780
fee and that, unless the fee is paid, the person will not be 1781
considered for employment; 1782

(b) The medicaid program does not reimburse the program or 1783
facility the fee it pays under division (D) (1) of this section. 1784

(E) The report of a criminal records check conducted 1785
pursuant to a request made under this section is not a public 1786
record for the purposes of section 149.43 of the Revised Code 1787
and shall not be made available to any person other than the 1788
following: 1789

(1) The individual who is the subject of the criminal 1790
records check or the individual's representative; 1791

(2) The chief administrator of the program or facility 1792

requesting the criminal records check or the administrator's 1793
representative; 1794

(3) The administrator of any other facility, agency, or 1795
program that provides direct care to older adults ~~or, pediatric~~ 1796
respite care patients, or palliative care patients that is owned 1797
or operated by the same entity that owns or operates the hospice 1798
care program ~~or, pediatric respite care program, or palliative~~ 1799
care facility; 1800

(4) A court, hearing officer, or other necessary 1801
individual involved in a case dealing with a denial of 1802
employment of the applicant or dealing with employment or 1803
unemployment benefits of the applicant; 1804

(5) Any person to whom the report is provided pursuant to, 1805
and in accordance with, division (I) (1) or (2) of this section. 1806

(F) The director of health shall adopt rules in accordance 1807
with Chapter 119. of the Revised Code to implement this section. 1808
The rules shall specify circumstances under which a hospice care 1809
program ~~or, pediatric respite care program, or palliative care~~ 1810
facility may employ a person who has been convicted of or 1811
pleaded guilty to an offense listed or described in division (C) 1812
(1) of this section but meets personal character standards set 1813
by the director. 1814

(G) The chief administrator of a hospice care program ~~or, pediatric~~ 1815
respite care program, or palliative care facility 1816
shall inform each individual, at the time of initial application 1817
for a position that involves providing direct care to an older 1818
adult ~~or, pediatric respite care patient, or palliative care~~ 1819
patient, that the individual is required to provide a set of 1820
fingerprint impressions and that a criminal records check is 1821

required to be conducted if the individual comes under final 1822
consideration for employment. 1823

(H) In a tort or other civil action for damages that is 1824
brought as the result of an injury, death, or loss to person or 1825
property caused by an individual who a hospice care program ~~or,~~ 1826
pediatric respite care program, or palliative care facility 1827
employs in a position that involves providing direct care to 1828
older adults ~~or,~~ pediatric respite care patients, or palliative 1829
care patients, all of the following shall apply: 1830

(1) If the program or facility employed the individual in 1831
good faith and reasonable reliance on the report of a criminal 1832
records check requested under this section, the program or 1833
facility shall not be found negligent solely because of its 1834
reliance on the report, even if the information in the report is 1835
determined later to have been incomplete or inaccurate; 1836

(2) If the program or facility employed the individual in 1837
good faith on a conditional basis pursuant to division (C) (2) of 1838
this section, the program or facility shall not be found 1839
negligent solely because it employed the individual prior to 1840
receiving the report of a criminal records check requested under 1841
this section; 1842

(3) If the program or facility in good faith employed the 1843
individual according to the personal character standards 1844
established in rules adopted under division (F) of this section, 1845
the program or facility shall not be found negligent solely 1846
because the individual prior to being employed had been 1847
convicted of or pleaded guilty to an offense listed or described 1848
in division (C) (1) of this section. 1849

(I) (1) The chief administrator of a hospice care program 1850

~~or, a~~ pediatric respite care program, or palliative care facility 1851
is not required to request that the superintendent of the bureau 1852
of criminal identification and investigation conduct a criminal 1853
records check of an applicant if the applicant has been referred 1854
to the program by an employment service that supplies full-time, 1855
part-time, or temporary staff for positions involving the direct 1856
care of older adults~~or, a~~ pediatric respite care patients, or 1857
palliative care patients and both of the following apply: 1858

(a) The chief administrator receives from the employment 1859
service or the applicant a report of the results of a criminal 1860
records check regarding the applicant that has been conducted by 1861
the superintendent within the one-year period immediately 1862
preceding the applicant's referral; 1863

(b) The report of the criminal records check demonstrates 1864
that the person has not been convicted of or pleaded guilty to 1865
an offense listed or described in division (C)(1) of this 1866
section, or the report demonstrates that the person has been 1867
convicted of or pleaded guilty to one or more of those offenses, 1868
but the hospice care program~~or, a~~ pediatric respite care 1869
program, or palliative care facility chooses to employ the 1870
individual pursuant to division (F) of this section. 1871

(2) The chief administrator of a hospice care program~~or, a~~ 1872
pediatric respite care program, or palliative care facility is 1873
not required to request that the superintendent of the bureau of 1874
criminal identification and investigation conduct a criminal 1875
records check of an applicant and may employ the applicant 1876
conditionally as described in this division, if the applicant 1877
has been referred to the program or facility by an employment 1878
service that supplies full-time, part-time, or temporary staff 1879
for positions involving the direct care of older adults~~or, a~~ 1880

pediatric respite care patients, or palliative care patients and 1881
if the chief administrator receives from the employment service 1882
or the applicant a letter from the employment service that is on 1883
the letterhead of the employment service, dated, and signed by a 1884
supervisor or another designated official of the employment 1885
service and that states that the employment service has 1886
requested the superintendent to conduct a criminal records check 1887
regarding the applicant, that the requested criminal records 1888
check will include a determination of whether the applicant has 1889
been convicted of or pleaded guilty to any offense listed or 1890
described in division (C) (1) of this section, that, as of the 1891
date set forth on the letter, the employment service had not 1892
received the results of the criminal records check, and that, 1893
when the employment service receives the results of the criminal 1894
records check, it promptly will send a copy of the results to 1895
the hospice care program ~~or~~, pediatric respite care program, or 1896
palliative care facility. If a ~~hospice care program or pediatric~~ 1897
~~respite care program~~ facility employs an applicant conditionally 1898
in accordance with this division, the employment service, upon 1899
its receipt of the results of the criminal records check, 1900
promptly shall send a copy of the results to the ~~hospice care~~ 1901
~~program or pediatric respite care program~~ facility, and division 1902
(C) (2) (b) of this section applies regarding the conditional 1903
employment. 1904

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 1905
and 3721.99 of the Revised Code: 1906

(1) (a) "Home" means an institution, residence, or facility 1907
that provides, for a period of more than twenty-four hours, 1908
whether for a consideration or not, accommodations to three or 1909
more unrelated individuals who are dependent upon the services 1910
of others, including a nursing home, residential care facility, 1911

home for the aging, and a veterans' home operated under Chapter	1912
5907. of the Revised Code.	1913
(b) "Home" also means both of the following:	1914
(i) Any facility that a person, as defined in section	1915
3702.51 of the Revised Code, proposes for certification as a	1916
skilled nursing facility or nursing facility under Title XVIII	1917
or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42	1918
U.S.C.A. 301, as amended, and for which a certificate of need,	1919
other than a certificate to recategorize hospital beds as	1920
described in section 3702.521 of the Revised Code or division	1921
(R) (7) (d) of the version of section 3702.51 of the Revised Code	1922
in effect immediately prior to April 20, 1995, has been granted	1923
to the person under sections 3702.51 to 3702.62 of the Revised	1924
Code after August 5, 1989;	1925
(ii) A county home or district home that is or has been	1926
licensed as a residential care facility.	1927
(c) "Home" does not mean any of the following:	1928
(i) Except as provided in division (A) (1) (b) of this	1929
section, a public hospital or hospital as defined in section	1930
3701.01 or 5122.01 of the Revised Code;	1931
(ii) A residential facility as defined in section 5119.34	1932
of the Revised Code;	1933
(iii) A residential facility as defined in section 5123.19	1934
of the Revised Code;	1935
(iv) A community addiction services provider as defined in	1936
section 5119.01 of the Revised Code;	1937
(v) A facility licensed to provide methadone treatment	1938
under section 5119.391 of the Revised Code;	1939

(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;	1940 1941 1942
(vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	1943 1944 1945
(viii) A facility operated by a pediatric respite care program licensed under section 3712.041 of the Revised Code that is used exclusively for care of pediatric respite care patients;	1946 1947 1948
(ix) <u>A palliative care facility licensed under section 3712.042 of the Revised Code;</u>	1949 1950
<u>(x)</u> A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program or the medicaid program if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;	1951 1952 1953 1954 1955 1956 1957 1958
(x) <u>(xi)</u> A county home or district home that has never been licensed as a residential care facility.	1959 1960
(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.	1961 1962 1963 1964 1965
(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.	1966 1967 1968

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

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

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

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5) (a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of

a physician or a licensed dietitian, in accordance with rules 1997
adopted under section 3721.04 of the Revised Code. 1998

(b) "Personal care services" does not include "skilled 1999
nursing care" as defined in division (A)(4) of this section. A 2000
facility need not provide more than one of the services listed 2001
in division (A)(5)(a) of this section to be considered to be 2002
providing personal care services. 2003

(6) "Nursing home" means a home used for the reception and 2004
care of individuals who by reason of illness or physical or 2005
mental impairment require skilled nursing care and of 2006
individuals who require personal care services but not skilled 2007
nursing care. A nursing home is licensed to provide personal 2008
care services and skilled nursing care. 2009

(7) "Residential care facility" means a home that provides 2010
either of the following: 2011

(a) Accommodations for seventeen or more unrelated 2012
individuals and supervision and personal care services for three 2013
or more of those individuals who are dependent on the services 2014
of others by reason of age or physical or mental impairment; 2015

(b) Accommodations for three or more unrelated 2016
individuals, supervision and personal care services for at least 2017
three of those individuals who are dependent on the services of 2018
others by reason of age or physical or mental impairment, and, 2019
to at least one of those individuals, any of the skilled nursing 2020
care authorized by section 3721.011 of the Revised Code. 2021

(8) "Home for the aging" means a home that provides 2022
services as a residential care facility and a nursing home, 2023
except that the home provides its services only to individuals 2024
who are dependent on the services of others by reason of both 2025

age and physical or mental impairment. 2026

The part or unit of a home for the aging that provides 2027
services only as a residential care facility is licensed as a 2028
residential care facility. The part or unit that may provide 2029
skilled nursing care beyond the extent authorized by section 2030
3721.011 of the Revised Code is licensed as a nursing home. 2031

(9) "County home" and "district home" mean a county home 2032
or district home operated under Chapter 5155. of the Revised 2033
Code. 2034

(B) The director of health may further classify homes. For 2035
the purposes of this chapter, any residence, institution, hotel, 2036
congregate housing project, or similar facility that meets the 2037
definition of a home under this section is such a home 2038
regardless of how the facility holds itself out to the public. 2039

(C) For purposes of this chapter, personal care services 2040
or skilled nursing care shall be considered to be provided by a 2041
facility if they are provided by a person employed by or 2042
associated with the facility or by another person pursuant to an 2043
agreement to which neither the resident who receives the 2044
services nor the resident's sponsor is a party. 2045

(D) Nothing in division (A) (4) of this section shall be 2046
construed to permit skilled nursing care to be imposed on an 2047
individual who does not require skilled nursing care. 2048

Nothing in division (A) (5) of this section shall be 2049
construed to permit personal care services to be imposed on an 2050
individual who is capable of performing the activity in question 2051
without assistance. 2052

(E) Division (A) (1) (c) (ix) of this section does not 2053
prohibit a facility, infirmary, or other entity described in 2054

that division from seeking licensure under sections 3721.01 to 2055
3721.09 of the Revised Code or certification under Title XVIII 2056
or XIX of the "Social Security Act." However, such a facility, 2057
infirmary, or entity that applies for licensure or certification 2058
must meet the requirements of those sections or titles and the 2059
rules adopted under them and obtain a certificate of need from 2060
the director of health under section 3702.52 of the Revised 2061
Code. 2062

(F) Nothing in this chapter, or rules adopted pursuant to 2063
it, shall be construed as authorizing the supervision, 2064
regulation, or control of the spiritual care or treatment of 2065
residents or patients in any home who rely upon treatment by 2066
prayer or spiritual means in accordance with the creed or tenets 2067
of any recognized church or religious denomination. 2068

Sec. 3795.01. As used in sections 3795.01, 3795.02, and 2069
3795.03 of the Revised Code: 2070

(A) "Assist suicide" or "assisting suicide" means 2071
knowingly doing either of the following, with the purpose of 2072
helping another person to commit or attempt suicide: 2073

(1) Providing the physical means by which the person 2074
commits or attempts to commit suicide; 2075

(2) Participating in a physical act by which the person 2076
commits or attempts to commit suicide. 2077

(B) "Certified nurse practitioner," "certified nurse- 2078
midwife," and "clinical nurse specialist" have the same meanings 2079
as in section 4723.01 of the Revised Code. 2080

(C) "CPR" has the same meaning as in section 2133.21 of 2081
the Revised Code. 2082

(D) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat a person's physical or mental condition. 2083
2084
2085

(E) "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to health care. 2086
2087
2088

(F) "Health care facility" means any of the following: 2089

(1) A hospital; 2090

(2) A hospice care program, palliative care facility, or pediatric respite care program as defined in section 3712.01 of the Revised Code; 2091
2092
2093

(3) A nursing home; 2094

(4) A home health agency; 2095

(5) An intermediate care facility for individuals with intellectual disabilities. 2096
2097

(G) "Health care personnel" means physicians, nurses, physician assistants, emergency medical technicians-basic, emergency medical technicians-intermediate, emergency medical technicians-paramedic, medical technicians, dietitians, other authorized persons acting under the direction of an attending physician, and administrators of health care facilities. 2098
2099
2100
2101
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(H) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 2104
2105
2106

Sec. 3963.01. As used in this chapter: 2107

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or 2108
2109

controlled by a contracting entity, or is under common ownership 2110
or control with a contracting entity. 2111

(B) "Basic health care services" has the same meaning as 2112
in division (A) of section 1751.01 of the Revised Code, except 2113
that it does not include any services listed in that division 2114
that are provided by a pharmacist or nursing home. 2115

(C) "Contracting entity" means any person that has a 2116
primary business purpose of contracting with participating 2117
providers for the delivery of health care services. 2118

(D) "Credentialing" means the process of assessing and 2119
validating the qualifications of a provider applying to be 2120
approved by a contracting entity to provide basic health care 2121
services, specialty health care services, or supplemental health 2122
care services to enrollees. 2123

(E) "Edit" means adjusting one or more procedure codes 2124
billed by a participating provider on a claim for payment or a 2125
practice that results in any of the following: 2126

(1) Payment for some, but not all of the procedure codes 2127
originally billed by a participating provider; 2128

(2) Payment for a different procedure code than the 2129
procedure code originally billed by a participating provider; 2130

(3) A reduced payment as a result of services provided to 2131
an enrollee that are claimed under more than one procedure code 2132
on the same service date. 2133

(F) "Electronic claims transport" means to accept and 2134
digitize claims or to accept claims already digitized, to place 2135
those claims into a format that complies with the electronic 2136
transaction standards issued by the United States department of 2137

health and human services pursuant to the "Health Insurance 2138
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 2139
U.S.C. 1320d, et seq., as those electronic standards are 2140
applicable to the parties and as those electronic standards are 2141
updated from time to time, and to electronically transmit those 2142
claims to the appropriate contracting entity, payer, or third- 2143
party administrator. 2144

(G) "Enrollee" means any person eligible for health care 2145
benefits under a health benefit plan, including an eligible 2146
recipient of medicaid, and includes all of the following terms: 2147

(1) "Enrollee" and "subscriber" as defined by section 2148
1751.01 of the Revised Code; 2149

(2) "Member" as defined by section 1739.01 of the Revised 2150
Code; 2151

(3) "Insured" and "plan member" pursuant to Chapter 3923. 2152
of the Revised Code; 2153

(4) "Beneficiary" as defined by section 3901.38 of the 2154
Revised Code. 2155

(H) "Health care contract" means a contract entered into, 2156
materially amended, or renewed between a contracting entity and 2157
a participating provider for the delivery of basic health care 2158
services, specialty health care services, or supplemental health 2159
care services to enrollees. 2160

(I) "Health care services" means basic health care 2161
services, specialty health care services, and supplemental 2162
health care services. 2163

(J) "Material amendment" means an amendment to a health 2164
care contract that decreases the participating provider's 2165

payment or compensation, changes the administrative procedures 2166
in a way that may reasonably be expected to significantly 2167
increase the provider's administrative expenses, or adds a new 2168
product. A material amendment does not include any of the 2169
following: 2170

(1) A decrease in payment or compensation resulting solely 2171
from a change in a published fee schedule upon which the payment 2172
or compensation is based and the date of applicability is 2173
clearly identified in the contract; 2174

(2) A decrease in payment or compensation that was 2175
anticipated under the terms of the contract, if the amount and 2176
date of applicability of the decrease is clearly identified in 2177
the contract; 2178

(3) An administrative change that may significantly 2179
increase the provider's administrative expense, the specific 2180
applicability of which is clearly identified in the contract; 2181

(4) Changes to an existing prior authorization, 2182
precertification, notification, or referral program that do not 2183
substantially increase the provider's administrative expense; 2184

(5) Changes to an edit program or to specific edits if the 2185
participating provider is provided notice of the changes 2186
pursuant to division (A) (1) of section 3963.04 of the Revised 2187
Code and the notice includes information sufficient for the 2188
provider to determine the effect of the change; 2189

(6) Changes to a health care contract described in 2190
division (B) of section 3963.04 of the Revised Code. 2191

(K) "Participating provider" means a provider that has a 2192
health care contract with a contracting entity and is entitled 2193
to reimbursement for health care services rendered to an 2194

enrollee under the health care contract.	2195
(L) "Payer" means any person that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services provided to enrollees by participating providers pursuant to a health care contract.	2196 2197 2198 2199
(M) "Primary enrollee" means a person who is responsible for making payments for participation in a health care plan or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health care plan.	2200 2201 2202 2203
(N) "Procedure codes" includes the American medical association's current procedural terminology code, the American dental association's current dental terminology, and the centers for medicare and medicaid services health care common procedure coding system.	2204 2205 2206 2207 2208
(O) "Product" means one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:	2209 2210 2211 2212
(1) A health maintenance organization or other product provided by a health insuring corporation;	2213 2214
(2) A preferred provider organization;	2215
(3) Medicare;	2216
(4) Medicaid;	2217
(5) Workers' compensation.	2218
(P) "Provider" means a physician, podiatrist, dentist, chiropractor, optometrist, psychologist, physician assistant, advanced practice registered nurse, occupational therapist,	2219 2220 2221

massage therapist, physical therapist, licensed professional 2222
counselor, licensed professional clinical counselor, hearing aid 2223
dealer, orthotist, prosthetist, home health agency, hospice care 2224
program, pediatric respite care program, palliative care 2225
facility, or hospital, or a provider organization or physician- 2226
hospital organization that is acting exclusively as an 2227
administrator on behalf of a provider to facilitate the 2228
provider's participation in health care contracts. "Provider" 2229
does not mean a pharmacist, pharmacy, nursing home, or a 2230
provider organization or physician-hospital organization that 2231
leases the provider organization's or physician-hospital 2232
organization's network to a third party or contracts directly 2233
with employers or health and welfare funds. 2234

(Q) "Specialty health care services" has the same meaning 2235
as in section 1751.01 of the Revised Code, except that it does 2236
not include any services listed in division (B) of section 2237
1751.01 of the Revised Code that are provided by a pharmacist or 2238
a nursing home. 2239

(R) "Supplemental health care services" has the same 2240
meaning as in division (B) of section 1751.01 of the Revised 2241
Code, except that it does not include any services listed in 2242
that division that are provided by a pharmacist or nursing home. 2243

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 2244
of the Revised Code: 2245

(1) "Affiliate" means a business entity that is owned by, 2246
operated by, controlled by, or under common control with another 2247
business entity. 2248

(2) "Communication" means a written or oral notification 2249
or advertisement that meets both of the following criteria, as 2250

applicable:	2251
(a) The notification or advertisement is transmitted by or	2252
on behalf of the seller of goods or services and by or through	2253
any printed, audio, video, cinematic, telephonic, or electronic	2254
means.	2255
(b) In the case of a notification or advertisement other	2256
than by telephone, either of the following conditions is met:	2257
(i) The notification or advertisement is followed by a	2258
telephone call from a telephone solicitor or salesperson.	2259
(ii) The notification or advertisement invites a response	2260
by telephone, and, during the course of that response, a	2261
telephone solicitor or salesperson attempts to make or makes a	2262
sale of goods or services. As used in division (A) (2) (b) (ii) of	2263
this section, "invites a response by telephone" excludes the	2264
mere listing or inclusion of a telephone number in a	2265
notification or advertisement.	2266
(3) "Gift, award, or prize" means anything of value that	2267
is offered or purportedly offered, or given or purportedly given	2268
by chance, at no cost to the receiver and with no obligation to	2269
purchase goods or services. As used in this division, "chance"	2270
includes a situation in which a person is guaranteed to receive	2271
an item and, at the time of the offer or purported offer, the	2272
telephone solicitor does not identify the specific item that the	2273
person will receive.	2274
(4) "Goods or services" means any real property or any	2275
tangible or intangible personal property, or services of any	2276
kind provided or offered to a person. "Goods or services"	2277
includes, but is not limited to, advertising; labor performed	2278
for the benefit of a person; personal property intended to be	2279

attached to or installed in any real property, regardless of 2280
whether it is so attached or installed; timeshare estates or 2281
licenses; and extended service contracts. 2282

(5) "Purchaser" means a person that is solicited to become 2283
or does become financially obligated as a result of a telephone 2284
solicitation. 2285

(6) "Salesperson" means an individual who is employed, 2286
appointed, or authorized by a telephone solicitor to make 2287
telephone solicitations but does not mean any of the following: 2288

(a) An individual who comes within one of the exemptions 2289
in division (B) of this section; 2290

(b) An individual employed, appointed, or authorized by a 2291
person who comes within one of the exemptions in division (B) of 2292
this section; 2293

(c) An individual under a written contract with a person 2294
who comes within one of the exemptions in division (B) of this 2295
section, if liability for all transactions with purchasers is 2296
assumed by the person so exempted. 2297

(7) "Telephone solicitation" means a communication to a 2298
person that meets both of the following criteria: 2299

(a) The communication is initiated by or on behalf of a 2300
telephone solicitor or by a salesperson. 2301

(b) The communication either represents a price or the 2302
quality or availability of goods or services or is used to 2303
induce the person to purchase goods or services, including, but 2304
not limited to, inducement through the offering of a gift, 2305
award, or prize. 2306

(8) "Telephone solicitor" means a person that engages in 2307

telephone solicitation directly or through one or more 2308
salespersons either from a location in this state, or from a 2309
location outside this state to persons in this state. "Telephone 2310
solicitor" includes, but is not limited to, any such person that 2311
is an owner, operator, officer, or director of, partner in, or 2312
other individual engaged in the management activities of, a 2313
business. 2314

(B) A telephone solicitor is exempt from the provisions of 2315
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 2316
Code if the telephone solicitor is any one of the following: 2317

(1) A person engaging in a telephone solicitation that is 2318
a one-time or infrequent transaction not done in the course of a 2319
pattern of repeated transactions of a like nature; 2320

(2) A person engaged in telephone solicitation solely for 2321
religious or political purposes; a charitable organization, 2322
fund-raising counsel, or professional solicitor in compliance 2323
with the registration and reporting requirements of Chapter 2324
1716. of the Revised Code; or any person or other entity exempt 2325
under section 1716.03 of the Revised Code from filing a 2326
registration statement under section 1716.02 of the Revised 2327
Code; 2328

(3) A person, making a telephone solicitation involving a 2329
home solicitation sale as defined in section 1345.21 of the 2330
Revised Code, that makes the sales presentation and completes 2331
the sale at a later, face-to-face meeting between the seller and 2332
the purchaser rather than during the telephone solicitation. 2333
However, if the person, following the telephone solicitation, 2334
causes another person to collect the payment of any money, this 2335
exemption does not apply. 2336

(4) A licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person when making a telephone solicitation within the scope of the person's license. As used in division (B) (4) of this section, "licensed securities, commodities, or investment broker, dealer, investment advisor, or associated person" means a person subject to licensure or registration as such by the securities and exchange commission; the National Association of Securities Dealers or other self-regulatory organization, as defined by 15 U.S.C.A. 78c; by the division of securities under Chapter 1707. of the Revised Code; or by an official or agency of any other state of the United States.

(5) (a) A person primarily engaged in soliciting the sale of a newspaper of general circulation;

(b) As used in division (B) (5) (a) of this section, "newspaper of general circulation" includes, but is not limited to, both of the following:

(i) A newspaper that is a daily law journal designated as an official publisher of court calendars pursuant to section 2701.09 of the Revised Code;

(ii) A newspaper or publication that has at least twenty-five per cent editorial, non-advertising content, exclusive of inserts, measured relative to total publication space, and an audited circulation to at least fifty per cent of the households in the newspaper's retail trade zone as defined by the audit.

(6) (a) An issuer, or its subsidiary, that has a class of securities to which all of the following apply:

(i) The class of securities is subject to section 12 of the "Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is

registered or is exempt from registration under 15 U.S.C.A. 2366
781(g) (2) (A), (B), (C), (E), (F), (G), or (H); 2367

(ii) The class of securities is listed on the New York 2368
stock exchange, the American stock exchange, or the NASDAQ 2369
national market system; 2370

(iii) The class of securities is a reported security as 2371
defined in 17 C.F.R. 240.11Aa3-1(a) (4). 2372

(b) An issuer, or its subsidiary, that formerly had a 2373
class of securities that met the criteria set forth in division 2374
(B) (6) (a) of this section if the issuer, or its subsidiary, has 2375
a net worth in excess of one hundred million dollars, files or 2376
its parent files with the securities and exchange commission an 2377
S.E.C. form 10-K, and has continued in substantially the same 2378
business since it had a class of securities that met the 2379
criteria in division (B) (6) (a) of this section. As used in 2380
division (B) (6) (b) of this section, "issuer" and "subsidiary" 2381
include the successor to an issuer or subsidiary. 2382

(7) A person soliciting a transaction regulated by the 2383
commodity futures trading commission, if the person is 2384
registered or temporarily registered for that activity with the 2385
commission under 7 U.S.C.A. 1 et seq. and the registration or 2386
temporary registration has not expired or been suspended or 2387
revoked; 2388

(8) A person soliciting the sale of any book, record, 2389
audio tape, compact disc, or video, if the person allows the 2390
purchaser to review the merchandise for at least seven days and 2391
provides a full refund within thirty days to a purchaser who 2392
returns the merchandise or if the person solicits the sale on 2393
behalf of a membership club operating in compliance with 2394

regulations adopted by the federal trade commission in 16 C.F.R. 2395
425; 2396

(9) A supervised financial institution or its subsidiary. 2397
As used in division (B)(9) of this section, "supervised 2398
financial institution" means a bank, trust company, savings and 2399
loan association, savings bank, credit union, industrial loan 2400
company, consumer finance lender, commercial finance lender, or 2401
institution described in section 2(c)(2)(F) of the "Bank Holding 2402
Company Act of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, 2403
supervised by an official or agency of the United States, this 2404
state, or any other state of the United States; or a licensee or 2405
registrant under sections 1321.01 to 1321.19, 1321.51 to 2406
1321.60, or 1321.71 to 1321.83 of the Revised Code. 2407

(10)(a) An insurance company, association, or other 2408
organization that is licensed or authorized to conduct business 2409
in this state by the superintendent of insurance pursuant to 2410
Title XXXIX of the Revised Code or Chapter 1751. of the Revised 2411
Code, when soliciting within the scope of its license or 2412
authorization. 2413

(b) A licensed insurance broker, agent, or solicitor when 2414
soliciting within the scope of the person's license. As used in 2415
division (B)(10)(b) of this section, "licensed insurance broker, 2416
agent, or solicitor" means any person licensed as an insurance 2417
broker, agent, or solicitor by the superintendent of insurance 2418
pursuant to Title XXXIX of the Revised Code. 2419

(11) A person soliciting the sale of services provided by 2420
a cable television system operating under authority of a 2421
governmental franchise or permit; 2422

(12) A person soliciting a business-to-business sale under 2423

which any of the following conditions are met:	2424
(a) The telephone solicitor has been operating	2425
continuously for at least three years under the same business	2426
name under which it solicits purchasers, and at least fifty-one	2427
per cent of its gross dollar volume of sales consists of repeat	2428
sales to existing customers to whom it has made sales under the	2429
same business name.	2430
(b) The purchaser business intends to resell the goods	2431
purchased.	2432
(c) The purchaser business intends to use the goods or	2433
services purchased in a recycling, reuse, manufacturing, or	2434
remanufacturing process.	2435
(d) The telephone solicitor is a publisher of a periodical	2436
or of magazines distributed as controlled circulation	2437
publications as defined in division (CC) of section 5739.01 of	2438
the Revised Code and is soliciting sales of advertising,	2439
subscriptions, reprints, lists, information databases,	2440
conference participation or sponsorships, trade shows or media	2441
products related to the periodical or magazine, or other	2442
publishing services provided by the controlled circulation	2443
publication.	2444
(13) A person that, not less often than once each year,	2445
publishes and delivers to potential purchasers a catalog that	2446
complies with both of the following:	2447
(a) It includes all of the following:	2448
(i) The business address of the seller;	2449
(ii) A written description or illustration of each good or	2450
service offered for sale;	2451

(iii) A clear and conspicuous disclosure of the sale price 2452
of each good or service; shipping, handling, and other charges; 2453
and return policy. 2454

(b) One of the following applies: 2455

(i) The catalog includes at least twenty-four pages of 2456
written material and illustrations, is distributed in more than 2457
one state, and has an annual postage-paid mail circulation of 2458
not less than two hundred fifty thousand households; 2459

(ii) The catalog includes at least ten pages of written 2460
material or an equivalent amount of material in electronic form 2461
on the internet or an on-line computer service, the person does 2462
not solicit customers by telephone but solely receives telephone 2463
calls made in response to the catalog, and during the calls the 2464
person takes orders but does not engage in further solicitation 2465
of the purchaser. As used in division (B)(13)(b)(ii) of this 2466
section, "further solicitation" does not include providing the 2467
purchaser with information about, or attempting to sell, any 2468
other item in the catalog that prompted the purchaser's call or 2469
in a substantially similar catalog issued by the seller. 2470

(14) A political subdivision or instrumentality of the 2471
United States, this state, or any state of the United States; 2472

(15) A college or university or any other public or 2473
private institution of higher education in this state; 2474

(16) A public utility as defined in section 4905.02 of the 2475
Revised Code or a retail natural gas supplier as defined in 2476
section 4929.01 of the Revised Code, if the utility or supplier 2477
is subject to regulation by the public utilities commission, or 2478
the affiliate of the utility or supplier; 2479

(17) A person that solicits sales through a television 2480

program or advertisement that is presented in the same market 2481
area no fewer than twenty days per month or offers for sale no 2482
fewer than ten distinct items of goods or services; and offers 2483
to the purchaser an unconditional right to return any good or 2484
service purchased within a period of at least seven days and to 2485
receive a full refund within thirty days after the purchaser 2486
returns the good or cancels the service; 2487

(18) (a) A person that, for at least one year, has been 2488
operating a retail business under the same name as that used in 2489
connection with telephone solicitation and both of the following 2490
occur on a continuing basis: 2491

(i) The person either displays goods and offers them for 2492
retail sale at the person's business premises or offers services 2493
for sale and provides them at the person's business premises. 2494

(ii) At least fifty-one per cent of the person's gross 2495
dollar volume of retail sales involves purchases of goods or 2496
services at the person's business premises. 2497

(b) An affiliate of a person that meets the requirements 2498
in division (B) (18) (a) of this section if the affiliate meets 2499
all of the following requirements: 2500

(i) The affiliate has operated a retail business for a 2501
period of less than one year; 2502

(ii) The affiliate either displays goods and offers them 2503
for retail sale at the affiliate's business premises or offers 2504
services for sale and provides them at the affiliate's business 2505
premises; 2506

(iii) At least fifty-one per cent of the affiliate's gross 2507
dollar volume of retail sales involves purchases of goods or 2508
services at the affiliate's business premises. 2509

(c) A person that, for a period of less than one year, has 2510
been operating a retail business in this state under the same 2511
name as that used in connection with telephone solicitation, as 2512
long as all of the following requirements are met: 2513

(i) The person either displays goods and offers them for 2514
retail sale at the person's business premises or offers services 2515
for sale and provides them at the person's business premises; 2516

(ii) The goods or services that are the subject of 2517
telephone solicitation are sold at the person's business 2518
premises, and at least sixty-five per cent of the person's gross 2519
dollar volume of retail sales involves purchases of goods or 2520
services at the person's business premises; 2521

(iii) The person conducts all telephone solicitation 2522
activities according to sections 310.3, 310.4, and 310.5 of the 2523
telemarketing sales rule adopted by the federal trade commission 2524
in 16 C.F.R. part 310. 2525

(19) A person who performs telephone solicitation sales 2526
services on behalf of other persons and to whom one of the 2527
following applies: 2528

(a) The person has operated under the same ownership, 2529
control, and business name for at least five years, and the 2530
person receives at least seventy-five per cent of its gross 2531
revenues from written telephone solicitation contracts with 2532
persons who come within one of the exemptions in division (B) of 2533
this section. 2534

(b) The person is an affiliate of one or more exempt 2535
persons and makes telephone solicitations on behalf of only the 2536
exempt persons of which it is an affiliate. 2537

(c) The person makes telephone solicitations on behalf of 2538

only exempt persons, the person and each exempt person on whose 2539
behalf telephone solicitations are made have entered into a 2540
written contract that specifies the manner in which the 2541
telephone solicitations are to be conducted and that at a 2542
minimum requires compliance with the telemarketing sales rule 2543
adopted by the federal trade commission in 16 C.F.R. part 310, 2544
and the person conducts the telephone solicitations in the 2545
manner specified in the written contract. 2546

(d) The person performs telephone solicitation for 2547
religious or political purposes, a charitable organization, a 2548
fund-raising council, or a professional solicitor in compliance 2549
with the registration and reporting requirements of Chapter 2550
1716. of the Revised Code; and meets all of the following 2551
requirements: 2552

(i) The person has operated under the same ownership, 2553
control, and business name for at least five years, and the 2554
person receives at least fifty-one per cent of its gross 2555
revenues from written telephone solicitation contracts with 2556
persons who come within the exemption in division (B) (2) of this 2557
section; 2558

(ii) The person does not conduct a prize promotion or 2559
offer the sale of an investment opportunity; 2560

(iii) The person conducts all telephone solicitation 2561
activities according to sections 310.3, 310.4, and 310.5 of the 2562
telemarketing sales rules adopted by the federal trade 2563
commission in 16 C.F.R. part 310. 2564

(20) A person that is a licensed real estate salesperson 2565
or broker under Chapter 4735. of the Revised Code when 2566
soliciting within the scope of the person's license; 2567

(21) (a) Either of the following:	2568
(i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.	2569 2570 2571 2572 2573
(ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. part 310, as adopted by the federal trade commission.	2574 2575 2576 2577 2578 2579 2580 2581 2582
(b) As used in division (B) (21) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.	2583 2584 2585 2586 2587
(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or the solicitation actually does not result in, a sale that costs the purchaser an amount greater than five hundred dollars.	2588 2589 2590 2591 2592 2593
(23) A funeral director licensed pursuant to Chapter 4717. of the Revised Code when soliciting within the scope of that license, if both of the following apply:	2594 2595 2596

(a) The solicitation and sale are conducted in compliance	2597
with 16 C.F.R. part 453, as adopted by the federal trade	2598
commission, and with sections 1107.33 and 1345.21 to 1345.28 of	2599
the Revised Code;	2600
(b) The person provides to the purchaser of any preneed	2601
funeral contract a notice that clearly and conspicuously sets	2602
forth the cancellation rights specified in division (G) of	2603
section 1107.33 of the Revised Code, and retains a copy of the	2604
notice signed by the purchaser.	2605
(24) A person, or affiliate thereof, licensed to sell or	2606
issue Ohio instruments designated as travelers checks pursuant	2607
to sections 1315.01 to 1315.18 of the Revised Code.	2608
(25) A person that solicits sales from its previous	2609
purchasers and meets all of the following requirements:	2610
(a) The solicitation is made under the same business name	2611
that was previously used to sell goods or services to the	2612
purchaser;	2613
(b) The person has, for a period of not less than three	2614
years, operated a business under the same business name as that	2615
used in connection with telephone solicitation;	2616
(c) The person does not conduct a prize promotion or offer	2617
the sale of an investment opportunity;	2618
(d) The person conducts all telephone solicitation	2619
activities according to sections 310.3, 310.4, and 310.5 of the	2620
telemarketing sales rules adopted by the federal trade	2621
commission in 16 C.F.R. part 310;	2622
(e) Neither the person nor any of its principals has been	2623
convicted of, pleaded guilty to, or has entered a plea of no	2624

contest for a felony or a theft offense as defined in sections 2625
2901.02 and 2913.01 of the Revised Code or similar law of 2626
another state or of the United States; 2627

(f) Neither the person nor any of its principals has had 2628
entered against them an injunction or a final judgment or order, 2629
including an agreed judgment or order, an assurance of voluntary 2630
compliance, or any similar instrument, in any civil or 2631
administrative action involving engaging in a pattern of corrupt 2632
practices, fraud, theft, embezzlement, fraudulent conversion, or 2633
misappropriation of property; the use of any untrue, deceptive, 2634
or misleading representation; or the use of any unfair, 2635
unlawful, deceptive, or unconscionable trade act or practice. 2636

(26) An institution defined as a home health agency in 2637
section 3701.881 of the Revised Code, that conducts all 2638
telephone solicitation activities according to sections 310.3, 2639
310.4, and 310.5 of the telemarketing sales rules adopted by the 2640
federal trade commission in 16 C.F.R. part 310, and engages in 2641
telephone solicitation only within the scope of the 2642
institution's certification, accreditation, contract with the 2643
department of aging, or status as a home health agency; and that 2644
meets one of the following requirements: 2645

(a) The institution is certified as a provider of home 2646
health services under Title XVIII of the Social Security Act, 49 2647
Stat. 620, 42 U.S.C. 301, as amended; 2648

(b) The institution is accredited by either the joint 2649
~~commission on accreditation of health care organizations~~ or the 2650
community health accreditation program; 2651

(c) The institution is providing PASSPORT services under 2652
the direction of the department of aging under sections 173.52 2653

to 173.523 of the Revised Code; 2654

(d) An affiliate of an institution that meets the 2655
requirements of division (B) (26) (a), (b), or (c) of this section 2656
when offering for sale substantially the same goods and services 2657
as those that are offered by the institution that meets the 2658
requirements of division (B) (26) (a), (b), or (c) of this 2659
section. 2660

(27) A person licensed by the department of health 2661
pursuant to section 3712.04~~or~~, 3712.041, or 3712.042 of the 2662
Revised Code to provide a hospice care program or pediatric 2663
respite care program, or to operate a palliative care facility, 2664
when conducting telephone solicitations within the scope of the 2665
person's license and according to sections 310.3, 310.4, and 2666
310.5 of the telemarketing sales rules adopted by the federal 2667
trade commission in 16 C.F.R. part 310. 2668

Sec. 4723.36. (A) A certified nurse practitioner or 2669
clinical nurse specialist may determine and pronounce an 2670
individual's death, but only if the individual's respiratory and 2671
circulatory functions are not being artificially sustained and, 2672
at the time the determination and pronouncement of death is 2673
made, either or both of the following apply: 2674

(1) The individual was receiving care in one of the 2675
following: 2676

(a) A nursing home licensed under section 3721.02 of the 2677
Revised Code or by a political subdivision under section 3721.09 2678
of the Revised Code; 2679

(b) A residential care facility or home for the aging 2680
licensed under Chapter 3721. of the Revised Code; 2681

(c) A county home or district home operated pursuant to 2682

Chapter 5155. of the Revised Code;	2683
(d) A residential facility licensed under section 5123.19 of the Revised Code.	2684 2685
(2) The certified nurse practitioner or clinical nurse specialist is providing or supervising the individual's care <u>at</u> <u>a palliative care facility or</u> through a hospice care program licensed under Chapter 3712. of the Revised Code or any other entity that provides palliative care.	2686 2687 2688 2689 2690
(B) A registered nurse may determine and pronounce an individual's death, but only if the individual's respiratory and circulatory functions are not being artificially sustained and, at the time the determination and pronouncement of death is made, the registered nurse is providing or supervising the individual's care <u>at a palliative care facility licensed under</u> <u>section 3712.042 of the Revised Code, or</u> through a hospice care program licensed under Chapter 3712. section 3712.04 of the Revised Code or any other entity that provides palliative care.	2691 2692 2693 2694 2695 2696 2697 2698 2699
(C) If a certified nurse practitioner, clinical nurse specialist, or registered nurse determines and pronounces an individual's death, the nurse shall comply with both of the following:	2700 2701 2702 2703
(1) The nurse shall not complete any portion of the individual's death certificate.	2704 2705
(2) The nurse shall notify the individual's attending physician of the determination and pronouncement of death in order for the physician to fulfill the physician's duties under section 3705.16 of the Revised Code. The nurse shall provide the notification within a period of time that is reasonable but not later than twenty-four hours following the determination and	2706 2707 2708 2709 2710 2711

pronouncement of the individual's death. 2712

Sec. 4723.481. This section establishes standards and 2713
conditions regarding the authority of a clinical nurse 2714
specialist, certified nurse-midwife, or certified nurse 2715
practitioner to prescribe drugs and therapeutic devices under a 2716
certificate to prescribe issued under section 4723.48 of the 2717
Revised Code. 2718

(A) A clinical nurse specialist, certified nurse-midwife, 2719
or certified nurse practitioner shall not prescribe any drug or 2720
therapeutic device that is not included in the types of drugs 2721
and devices listed on the formulary established in rules adopted 2722
under section 4723.50 of the Revised Code. 2723

(B) The prescriptive authority of a clinical nurse 2724
specialist, certified nurse-midwife, or certified nurse 2725
practitioner shall not exceed the prescriptive authority of the 2726
collaborating physician or podiatrist, including the 2727
collaborating physician's authority to treat chronic pain with 2728
controlled substances and products containing tramadol as 2729
described in section 4731.052 of the Revised Code. 2730

(C) (1) Except as provided in division (C) (2) or (3) of 2731
this section, a clinical nurse specialist, certified nurse- 2732
midwife, or certified nurse practitioner may prescribe to a 2733
patient a schedule II controlled substance only if all of the 2734
following are the case: 2735

(a) The patient has a terminal condition, as defined in 2736
section 2133.01 of the Revised Code. 2737

(b) The collaborating physician of the clinical nurse 2738
specialist, certified nurse-midwife, or certified nurse 2739
practitioner initially prescribed the substance for the patient. 2740

(c) The prescription is for an amount that does not exceed 2741
the amount necessary for the patient's use in a single, twenty- 2742
four-hour period. 2743

(2) The restrictions on prescriptive authority in division 2744
(C) (1) of this section do not apply if a clinical nurse 2745
specialist, certified nurse-midwife, or certified nurse 2746
practitioner issues the prescription to the patient from any of 2747
the following locations: 2748

(a) A hospital registered under section 3701.07 of the 2749
Revised Code; 2750

(b) An entity owned or controlled, in whole or in part, by 2751
a hospital or by an entity that owns or controls, in whole or in 2752
part, one or more hospitals; 2753

(c) A health care facility operated by the department of 2754
mental health and addiction services or the department of 2755
developmental disabilities; 2756

(d) A nursing home licensed under section 3721.02 of the 2757
Revised Code or by a political subdivision certified under 2758
section 3721.09 of the Revised Code; 2759

(e) A county home or district home operated under Chapter 2760
5155. of the Revised Code that is certified under the medicare 2761
or medicaid program; 2762

(f) A hospice care program or palliative care facility, as 2763
defined in section 3712.01 of the Revised Code; 2764

(g) A community mental health services provider, as 2765
defined in section 5122.01 of the Revised Code; 2766

(h) An ambulatory surgical facility, as defined in section 2767
3702.30 of the Revised Code; 2768

(i) A freestanding birthing center, as defined in section 3702.141 of the Revised Code;	2769 2770
(j) A federally qualified health center, as defined in section 3701.047 of the Revised Code;	2771 2772
(k) A federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;	2773 2774
(l) A health care office or facility operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	2775 2776 2777 2778
(m) A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site.	2779 2780 2781 2782 2783 2784 2785 2786
(3) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall not issue to a patient a prescription for a schedule II controlled substance from a convenience care clinic even if the clinic is owned or operated by an entity specified in division (C) (2) of this section.	2787 2788 2789 2790 2791
(D) A pharmacist who acts in good faith reliance on a prescription issued by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner under division (C) (2) of this section is not liable for or subject to any of the following for relying on the prescription: damages in any civil action, prosecution in any criminal proceeding, or	2792 2793 2794 2795 2796 2797

professional disciplinary action by the state board of pharmacy 2798
under Chapter 4729. of the Revised Code. 2799

(E) A clinical nurse specialist, certified nurse-midwife, 2800
or certified nurse practitioner may personally furnish to a 2801
patient a sample of any drug or therapeutic device included in 2802
the types of drugs and devices listed on the formulary, except 2803
that all of the following conditions apply: 2804

(1) The amount of the sample furnished shall not exceed a 2805
seventy-two-hour supply, except when the minimum available 2806
quantity of the sample is packaged in an amount that is greater 2807
than a seventy-two-hour supply, in which case the packaged 2808
amount may be furnished. 2809

(2) No charge may be imposed for the sample or for 2810
furnishing it. 2811

(3) Samples of controlled substances may not be personally 2812
furnished. 2813

(F) A clinical nurse specialist, certified nurse-midwife, 2814
or certified nurse practitioner may personally furnish to a 2815
patient a complete or partial supply of a drug or therapeutic 2816
device included in the types of drugs and devices listed on the 2817
formulary, except that all of the following conditions apply: 2818

(1) The clinical nurse specialist, certified nurse- 2819
midwife, or certified nurse practitioner shall personally 2820
furnish only antibiotics, antifungals, scabicides, 2821
contraceptives, prenatal vitamins, antihypertensives, drugs and 2822
devices used in the treatment of diabetes, drugs and devices 2823
used in the treatment of asthma, and drugs used in the treatment 2824
of dyslipidemia. 2825

(2) The clinical nurse specialist, certified nurse- 2826

midwife, or certified nurse practitioner shall not furnish the 2827
drugs and devices in locations other than a health department 2828
operated by the board of health of a city or general health 2829
district or the authority having the duties of a board of health 2830
under section 3709.05 of the Revised Code, a federally funded 2831
comprehensive primary care clinic, or a nonprofit health care 2832
clinic or program. 2833

(3) The clinical nurse specialist, certified nurse- 2834
midwife, or certified nurse practitioner shall comply with all 2835
safety standards for personally furnishing supplies of drugs and 2836
devices, as established in rules adopted under section 4723.50 2837
of the Revised Code. 2838

(G) A clinical nurse specialist, certified nurse-midwife, 2839
or certified nurse practitioner shall comply with section 2840
3719.061 of the Revised Code if the nurse prescribes for a 2841
minor, as defined in that section, an opioid analgesic, as 2842
defined in section 3719.01 of the Revised Code. 2843

Sec. 4723.487. (A) As used in this section: 2844

(1) "Drug database" means the database established and 2845
maintained by the state board of pharmacy pursuant to section 2846
4729.75 of the Revised Code. 2847

(2) "Opioid analgesic" and "benzodiazepine" have the same 2848
meanings as in section 3719.01 of the Revised Code. 2849

(B) Except as provided in divisions (C) and (E) of this 2850
section, an advanced practice registered nurse holding a 2851
certificate to prescribe issued under this chapter shall comply 2852
with all of the following as conditions of prescribing a drug 2853
that is either an opioid analgesic or a benzodiazepine as part 2854
of a patient's course of treatment for a particular condition: 2855

(1) Before initially prescribing the drug, the nurse or the nurse's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the nurse practices primarily in a county of this state that adjoins another state, the nurse or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the nurse or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B) (1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B) (1) or (2) of this section, the nurse shall assess the information in the report. The nurse shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply if in any of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the nurse shall document in the patient's record the reason that the report is not available.

(2) The drug is prescribed in an amount indicated for a

period not to exceed seven days. 2885

(3) The drug is prescribed for the treatment of cancer or 2886
another condition associated with cancer. 2887

(4) The drug is prescribed to a hospice patient in a 2888
hospice care program or to a palliative care patient in a 2889
palliative care facility, as those terms are defined in section 2890
3712.01 of the Revised Code, or to any other patient diagnosed 2891
as terminally ill. 2892

(5) The drug is prescribed for administration in a 2893
hospital, nursing home, or residential care facility. 2894

(D) The board of nursing may adopt rules, in accordance 2895
with Chapter 119. of the Revised Code, that establish standards 2896
and procedures to be followed by an advanced practice registered 2897
nurse with a certificate to prescribe issued under section 2898
4723.48 of the Revised Code regarding the review of patient 2899
information available through the drug database under division 2900
(A) (5) of section 4729.80 of the Revised Code. The rules shall 2901
be adopted in accordance with Chapter 119. of the Revised Code. 2902

(E) This section and any rules adopted under it do not 2903
apply if the state board of pharmacy no longer maintains the 2904
drug database. 2905

Sec. 4729.43. (A) As used in this section: 2906

(1) "Home health agency" has the same meaning as in 2907
section 3701.881 of the Revised Code. 2908

(2) "Hospice care program," ~~and~~ "hospice patient," 2909
"palliative care facility," and "palliative care patient" have 2910
the same meanings as in section 3712.01 of the Revised Code. 2911

(B) With regard to a dangerous drug that is indicated for 2912

the treatment of cancer or a cancer-related illness, must be 2913
administered intravenously or by subcutaneous injection, and 2914
cannot reasonably be self-administered by the patient to whom 2915
the drug is prescribed or by an individual assisting the patient 2916
with the self-administration, a pharmacist or pharmacy intern 2917
shall not dispense the drug by delivering the drug directly to 2918
any of the following or causing the drug to be delivered 2919
directly to any of the following: 2920

(1) The patient; 2921

(2) The patient's representative, which may include the 2922
patient's guardian or a family member or friend of the patient; 2923

(3) The patient's private residence unless any of the 2924
following is the case: 2925

(a) The patient's private residence is a nursing home, 2926
residential care facility, rehabilitation facility, palliative 2927
care facility, or similar institutional facility or health care 2928
facility. 2929

(b) If the patient is an adult and a hospice patient or 2930
client of a home health agency, the patient, the licensed health 2931
professional authorized to prescribe drugs who prescribed the 2932
drug to the patient, or an employee or agent of the prescriber 2933
has notified the pharmacist or pharmacy intern that the patient 2934
is a hospice patient or client of a home health agency and an 2935
employee or agent of the hospice care program or home health 2936
agency will be administering the drug to the patient. 2937

(c) If the patient is a minor and a hospice patient or 2938
client of a home health agency, either of the following has 2939
notified the pharmacist or pharmacy intern that the patient is a 2940
client of a home health agency and an employee or agent of the 2941

hospice care program or home health agency will be administering 2942
the drug to the patient: 2943

(i) The licensed health professional authorized to 2944
prescribe drugs who prescribed the drug to the patient or an 2945
employee or agent of the prescriber; 2946

(ii) The parent, guardian, or other person who has care or 2947
charge of the patient and is authorized to consent to medical 2948
treatment on behalf of the patient. 2949

Sec. 4730.202. (A) A physician assistant may determine and 2950
pronounce an individual's death, but only if the individual's 2951
respiratory and circulatory functions are not being artificially 2952
sustained and, at the time the determination and pronouncement 2953
of death is made, either or both of the following apply: 2954

(1) The individual was receiving care in one of the 2955
following: 2956

(a) A nursing home licensed under section 3721.02 of the 2957
Revised Code or by a political subdivision under section 3721.09 2958
of the Revised Code; 2959

(b) A residential care facility or home for the aging 2960
licensed under Chapter 3721. of the Revised Code; 2961

(c) A county home or district home operated pursuant to 2962
Chapter 5155. of the Revised Code; 2963

(d) A residential facility licensed under section 5123.19 2964
of the Revised Code; 2965

(e) A palliative care facility licensed under section 2966
3712.042 of the Revised Code. 2967

(2) The physician assistant is providing or supervising 2968

the individual's care through a hospice care program licensed 2969
under Chapter 3712. of the Revised Code or any other entity that 2970
provides palliative care other than a palliative care facility. 2971

(B) If a physician assistant determines and pronounces an 2972
individual's death, the physician assistant shall comply with 2973
both of the following: 2974

(1) The physician assistant shall not complete any portion 2975
of the individual's death certificate. 2976

(2) The physician assistant shall notify the individual's 2977
attending physician of the determination and pronouncement of 2978
death in order for the physician to fulfill the physician's 2979
duties under section 3705.16 of the Revised Code. The physician 2980
assistant shall provide the notification within a period of time 2981
that is reasonable but not later than twenty-four hours 2982
following the determination and pronouncement of the 2983
individual's death. 2984

Sec. 4730.411. (A) Except as provided in division (B) or 2985
(C) of this section, a physician assistant may prescribe to a 2986
patient a schedule II controlled substance only if all of the 2987
following are the case: 2988

(1) The patient is in a terminal condition, as defined in 2989
section 2133.01 of the Revised Code. 2990

(2) The physician assistant's supervising physician 2991
initially prescribed the substance for the patient. 2992

(3) The prescription is for an amount that does not exceed 2993
the amount necessary for the patient's use in a single, twenty- 2994
four-hour period. 2995

(B) The restrictions on prescriptive authority in division 2996

(A) of this section do not apply if a physician assistant issues the prescription to the patient from any of the following locations:	2997 2998 2999
(1) A hospital registered under section 3701.07 of the Revised Code;	3000 3001
(2) An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;	3002 3003 3004
(3) A health care facility operated by the department of mental health and addiction services or the department of developmental disabilities;	3005 3006 3007
(4) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;	3008 3009 3010
(5) A county home or district home operated under Chapter 5155. of the Revised Code that is certified under the medicare or medicaid program;	3011 3012 3013
(6) A hospice care program <u>or palliative care facility</u> , as defined in section 3712.01 of the Revised Code;	3014 3015
(7) A community mental health services provider, as defined in section 5122.01 of the Revised Code;	3016 3017
(8) An ambulatory surgical facility, as defined in section 3702.30 of the Revised Code;	3018 3019
(9) A freestanding birthing center, as defined in section 3702.141 of the Revised Code;	3020 3021
(10) A federally qualified health center, as defined in section 3701.047 of the Revised Code;	3022 3023

(11) A federally qualified health center look-alike, as 3024
defined in section 3701.047 of the Revised Code; 3025

(12) A health care office or facility operated by the 3026
board of health of a city or general health district or the 3027
authority having the duties of a board of health under section 3028
3709.05 of the Revised Code; 3029

(13) A site where a medical practice is operated, but only 3030
if the practice is comprised of one or more physicians who also 3031
are owners of the practice; the practice is organized to provide 3032
direct patient care; and the physician assistant has entered 3033
into a supervisory agreement with at least one of the physician 3034
owners who practices primarily at that site. 3035

(C) A physician assistant shall not issue to a patient a 3036
prescription for a schedule II controlled substance from a 3037
convenience care clinic even if the convenience care clinic is 3038
owned or operated by an entity specified in division (B) of this 3039
section. 3040

(D) A pharmacist who acts in good faith reliance on a 3041
prescription issued by a physician assistant under division (B) 3042
of this section is not liable for or subject to any of the 3043
following for relying on the prescription: damages in any civil 3044
action, prosecution in any criminal proceeding, or professional 3045
disciplinary action by the state board of pharmacy under Chapter 3046
4729. of the Revised Code. 3047

Sec. 4730.53. (A) As used in this section: 3048

(1) "Drug database" means the database established and 3049
maintained by the state board of pharmacy pursuant to section 3050
4729.75 of the Revised Code. 3051

(2) "Opioid analgesic" and "benzodiazepine" have the same 3052

meanings as in section 3719.01 of the Revised Code. 3053

(B) Except as provided in divisions (C) and (E) of this 3054
section, a physician assistant licensed under this chapter who 3055
has been granted physician-delegated prescriptive authority 3056
shall comply with all of the following as conditions of 3057
prescribing a drug that is either an opioid analgesic or a 3058
benzodiazepine as part of a patient's course of treatment for a 3059
particular condition: 3060

(1) Before initially prescribing the drug, the physician 3061
assistant or the physician assistant's delegate shall request 3062
from the drug database a report of information related to the 3063
patient that covers at least the twelve months immediately 3064
preceding the date of the request. If the physician assistant 3065
practices primarily in a county of this state that adjoins 3066
another state, the physician assistant or delegate also shall 3067
request a report of any information available in the drug 3068
database that pertains to prescriptions issued or drugs 3069
furnished to the patient in the state adjoining that county. 3070

(2) If the patient's course of treatment for the condition 3071
continues for more than ninety days after the initial report is 3072
requested, the physician assistant or delegate shall make 3073
periodic requests for reports of information from the drug 3074
database until the course of treatment has ended. The requests 3075
shall be made at intervals not exceeding ninety days, determined 3076
according to the date the initial request was made. The request 3077
shall be made in the same manner provided in division (B)(1) of 3078
this section for requesting the initial report of information 3079
from the drug database. 3080

(3) On receipt of a report under division (B)(1) or (2) of 3081
this section, the physician assistant shall assess the 3082

information in the report. The physician assistant shall 3083
document in the patient's record that the report was received 3084
and the information was assessed. 3085

(C) Division (B) of this section does not apply in any of 3086
the following circumstances: 3087

(1) A drug database report regarding the patient is not 3088
available, in which case the physician assistant shall document 3089
in the patient's record the reason that the report is not 3090
available. 3091

(2) The drug is prescribed in an amount indicated for a 3092
period not to exceed seven days. 3093

(3) The drug is prescribed for the treatment of cancer or 3094
another condition associated with cancer. 3095

(4) The drug is prescribed to a hospice patient in a 3096
hospice care program or to a palliative care patient in a 3097
palliative care facility, as those terms are defined in section 3098
3712.01 of the Revised Code, or to any other patient diagnosed 3099
as terminally ill. 3100

(5) The drug is prescribed for administration in a 3101
hospital, nursing home, or residential care facility. 3102

(D) The state medical board may adopt rules that establish 3103
standards and procedures to be followed by a physician assistant 3104
licensed under this chapter who has been granted physician- 3105
delegated prescriptive authority regarding the review of patient 3106
information available through the drug database under division 3107
(A) (5) of section 4729.80 of the Revised Code. The rules shall 3108
be adopted in accordance with Chapter 119. of the Revised Code. 3109

(E) This section and any rules adopted under it do not 3110

apply if the state board of pharmacy no longer maintains the 3111
drug database. 3112

Sec. 4731.055. (A) As used in this section: 3113

(1) "Drug database" means the database established and 3114
maintained by the state board of pharmacy pursuant to section 3115
4729.75 of the Revised Code. 3116

(2) "Physician" means an individual authorized under this 3117
chapter to practice medicine and surgery, osteopathic medicine 3118
and surgery, or podiatric medicine and surgery. 3119

(3) "Opioid analgesic" and "benzodiazepine" have the same 3120
meanings as in section 3719.01 of the Revised Code. 3121

(B) Except as provided in divisions (C) and (E) of this 3122
section, a physician shall comply with all of the following as 3123
conditions of prescribing a drug that is either an opioid 3124
analgesic or a benzodiazepine, or personally furnishing a 3125
complete or partial supply of such a drug, as part of a 3126
patient's course of treatment for a particular condition: 3127

(1) Before initially prescribing or furnishing the drug, 3128
the physician or the physician's delegate shall request from the 3129
drug database a report of information related to the patient 3130
that covers at least the twelve months immediately preceding the 3131
date of the request. If the physician practices primarily in a 3132
county of this state that adjoins another state, the physician 3133
or delegate also shall request a report of any information 3134
available in the drug database that pertains to prescriptions 3135
issued or drugs furnished to the patient in the state adjoining 3136
that county. 3137

(2) If the patient's course of treatment for the condition 3138
continues for more than ninety days after the initial report is 3139

requested, the physician or delegate shall make periodic 3140
requests for reports of information from the drug database until 3141
the course of treatment has ended. The requests shall be made at 3142
intervals not exceeding ninety days, determined according to the 3143
date the initial request was made. The request shall be made in 3144
the same manner provided in division (B)(1) of this section for 3145
requesting the initial report of information from the drug 3146
database. 3147

(3) On receipt of a report under division (B)(1) or (2) of 3148
this section, the physician shall assess the information in the 3149
report. The physician shall document in the patient's record 3150
that the report was received and the information was assessed. 3151

(C) Division (B) of this section does not apply in any of 3152
the following circumstances: 3153

(1) A drug database report regarding the patient is not 3154
available, in which case the physician shall document in the 3155
patient's record the reason that the report is not available. 3156

(2) The drug is prescribed or personally furnished in an 3157
amount indicated for a period not to exceed seven days. 3158

(3) The drug is prescribed or personally furnished for the 3159
treatment of cancer or another condition associated with cancer. 3160

(4) The drug is prescribed or personally furnished to a 3161
hospice patient in a hospice care program or to a palliative 3162
care patient in a palliative care facility, as those terms are 3163
defined in section 3712.01 of the Revised Code, or to any other 3164
patient diagnosed as terminally ill. 3165

(5) The drug is prescribed or personally furnished for 3166
administration in a hospital, nursing home, or residential care 3167
facility. 3168

(6) The drug is prescribed or personally furnished to 3169
treat acute pain resulting from a surgical or other invasive 3170
procedure or a delivery. 3171

(D) The state medical board may adopt rules that establish 3172
standards and procedures to be followed by a physician regarding 3173
the review of patient information available through the drug 3174
database under division (A) (5) of section 4729.80 of the Revised 3175
Code. The rules shall be adopted in accordance with Chapter 119. 3176
of the Revised Code. 3177

(E) This section and any rules adopted under it do not 3178
apply if the state board of pharmacy no longer maintains the 3179
drug database. 3180

Sec. 4731.228. (A) As used in this section: 3181

(1) "Federally qualified health center" has the same 3182
meaning as in section 3701.047 of the Revised Code. 3183

(2) "Federally qualified health center look-alike" has the 3184
same meaning as in section 3701.047 of the Revised Code. 3185

(3) "Health care entity" means any of the following that 3186
employs a physician to provide physician services: 3187

(a) A hospital registered with the department of health 3188
under section 3701.07 of the Revised Code; 3189

(b) A corporation formed under division (B) of section 3190
1701.03 of the Revised Code; 3191

(c) A corporation formed under Chapter 1702. of the 3192
Revised Code; 3193

(d) A limited liability company formed under Chapter 1705. 3194
of the Revised Code; 3195

(e) A health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code;	3196 3197
(f) A partnership;	3198
(g) A professional association formed under Chapter 1785. of the Revised Code.	3199 3200
(4) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.	3201 3202 3203
(5) "Physician services" means direct patient care services provided by a physician pursuant to a certificate issued to the physician by the state medical board.	3204 3205 3206
(6) "Termination" means the end of a physician's employment with a health care entity for any reason.	3207 3208
(B) This section applies when a physician's employment with a health care entity to provide physician services is terminated for any reason, unless the physician continues to provide medical services for patients of the health care entity on an independent contractor basis.	3209 3210 3211 3212 3213
(C) (1) Except as provided in division (C) (2) of this section, a health care entity shall send notice of the termination of a physician's employment to each patient who received physician services from the physician in the two-year period immediately preceding the date of employment termination. Only patients of the health care entity who received services from the physician are to receive the notice.	3214 3215 3216 3217 3218 3219 3220
(2) If the health care entity provides to the physician a list of patients treated and patient contact information, the health care entity may require the physician to send the notice	3221 3222 3223

required by this section. 3224

(D) The notice provided under division (C) of this section 3225
shall be provided not later than the date of termination or 3226
thirty days after the health care entity has actual knowledge of 3227
termination or resignation of the physician, whichever is later. 3228
The notice shall be provided in accordance with rules adopted by 3229
the state medical board under section 4731.05 of the Revised 3230
Code. The notice shall include at least all of the following: 3231

(1) A notice to the patient that the physician will no 3232
longer be practicing medicine as an employee of the health care 3233
entity; 3234

(2) Except in situations in which the health care entity 3235
has a good faith concern that the physician's conduct or the 3236
medical care provided by the physician would jeopardize the 3237
health and safety of patients, the physician's name and, if 3238
known by the health care entity, information provided by the 3239
physician that the patient may use to contact the physician; 3240

(3) The date on which the physician ceased or will cease 3241
to practice as an employee of the health care entity; 3242

(4) Contact information for an alternative physician or 3243
physicians employed by the health care entity or contact 3244
information for a group practice that can provide care for the 3245
patient; 3246

(5) Contact information that enables the patient to obtain 3247
information on the patient's medical records. 3248

(E) The requirements of this section do not apply to any 3249
of the following: 3250

(1) A physician rendering services to a patient on an 3251

episodic basis or in an emergency department or urgent care center, when it should not be reasonably expected that related medical services will be rendered by the physician to the patient in the future;

(2) A medical director or other physician providing services in a similar capacity to a medical director to patients through a hospice care program licensed pursuant to section 3712.04 of the Revised Code or a palliative care facility licensed pursuant to section 3712.042 of the Revised Code.

(3) Medical residents, interns, and fellows who work in hospitals, health systems, federally qualified health centers, and federally qualified health center look-alikes as part of their medical education and training.

(4) A physician providing services to a patient through a community mental health agency certified by the director of mental health under section 5119.611 of the Revised Code or an alcohol and drug addiction program certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code.

(5) A physician providing services to a patient through a federally qualified health center or a federally qualified health center look-alike.

Sec. 4752.02. (A) Except as provided in division (B) of this section, no person shall provide home medical equipment services or claim to the public to be a home medical equipment services provider unless either of the following is the case:

(1) The person holds a valid license issued under this chapter;

(2) The person holds a valid certificate of registration

issued under this chapter.	3281
(B) Division (A) of this section does not apply to any of the following:	3282
	3283
(1) A health care practitioner, as defined in section 4769.01 of the Revised Code, who does not sell or rent home medical equipment;	3284
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	3286
(2) A hospital that provides home medical equipment services only as an integral part of patient care and does not provide the services through a separate entity that has its own medicare or medicaid provider number;	3287
	3288
	3289
	3290
(3) A manufacturer or wholesale distributor of home medical equipment that does not sell directly to the public;	3291
	3292
(4) A hospice care program or , <u>pediatric respite care program, or palliative care facility</u> , as defined by section 3712.01 of the Revised Code, that does not sell or rent home medical equipment;	3293
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	3296
(5) A home, as defined by section 3721.01 of the Revised Code;	3297
	3298
(6) A home health agency that is certified under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as a provider of home health services and does not sell or rent home medical equipment;	3299
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	3301
	3302
(7) An individual who holds a current, valid license issued under Chapter 4741. of the Revised Code to practice veterinary medicine;	3303
	3304
	3305
(8) An individual who holds a current, valid license issued under Chapter 4779. of the Revised Code to practice orthotics, prosthetics, or pedorthics;	3306
	3307
	3308

(9) A pharmacy licensed under Chapter 4729. of the Revised Code that either does not sell or rent home medical equipment or receives total payments of less than ten thousand dollars per year from selling or renting home medical equipment;

(10) A home dialysis equipment provider regulated by federal law.

Sec. 5119.34. (A) As used in this section and sections 5119.341 and 5119.342 of the Revised Code:

(1) "Accommodations" means housing, daily meal preparation, laundry, housekeeping, arranging for transportation, social and recreational activities, maintenance, security, and other services that do not constitute personal care services or skilled nursing care.

(2) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services.

(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.

(4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age.

(5) "Community mental health services provider" means a community mental health services provider as defined in section 5119.01 of the Revised Code.

(6) "Community mental health services" means any mental health services certified by the department pursuant to section 5119.36 of the Revised Code.

(7) "Operator" means the person or persons, firm,

partnership, agency, governing body, association, corporation, 3337
or other entity that is responsible for the administration and 3338
management of a residential facility and that is the applicant 3339
for a residential facility license. 3340

(8) "Personal care services" means services including, but 3341
not limited to, the following: 3342

(a) Assisting residents with activities of daily living; 3343

(b) Assisting residents with self-administration of 3344
medication in accordance with rules adopted under this section; 3345

(c) Preparing special diets, other than complex 3346
therapeutic diets, for residents pursuant to the instructions of 3347
a physician or a licensed dietitian, in accordance with rules 3348
adopted under this section. 3349

"Personal care services" does not include "skilled nursing 3350
care" as defined in section 3721.01 of the Revised Code. A 3351
facility need not provide more than one of the services listed 3352
in division (A) (8) of this section to be considered to be 3353
providing personal care services. 3354

(9) "Room and board" means the provision of sleeping and 3355
living space, meals or meal preparation, laundry services, 3356
housekeeping services, or any combination thereof. 3357

(10) "Residential state supplement" means the program 3358
administered under section 5119.41 of the Revised Code and 3359
related provisions of the Administrative Code under which the 3360
state supplements the supplemental security income payments 3361
received by aged, blind, or disabled adults under Title XVI of 3362
the Social Security Act. Residential state supplement payments 3363
are used for the provision of accommodations, supervision, and 3364
personal care services to supplemental security income 3365

recipients the department of mental health and addition services 3366
determines are at risk of needing institutional care. 3367

(11) "Supervision" means any of the following: 3368

(a) Observing a resident to ensure the resident's health, 3369
safety, and welfare while the resident engages in activities of 3370
daily living or other activities; 3371

(b) Reminding a resident to perform or complete an 3372
activity, such as reminding a resident to engage in personal 3373
hygiene or other self-care activities; 3374

(c) Assisting a resident in making or keeping an 3375
appointment. 3376

(12) "Unrelated" means that a resident is not related to 3377
the owner or operator of a residential facility or to the 3378
owner's or operator's spouse as a parent, grandparent, child, 3379
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 3380
uncle, or as the child of an aunt or uncle. 3381

(B) (1) A "residential facility" is a publicly or privately 3382
operated home or facility that falls into one of the following 3383
categories: 3384

(a) Class one facilities provide accommodations, 3385
supervision, personal care services, and mental health services 3386
for one or more unrelated adults with mental illness or one or 3387
more unrelated children or adolescents with severe emotional 3388
disturbances; 3389

(b) Class two facilities provide accommodations, 3390
supervision, and personal care services to any of the following: 3391

(i) One or two unrelated persons with mental illness; 3392

(ii) One or two unrelated adults who are receiving residential state supplement payments;	3393 3394
(iii) Three to sixteen unrelated adults.	3395
(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.	3396 3397
(2) "Residential facility" does not include any of the following:	3398 3399
(a) A hospital subject to licensure under section 5119.33 of the Revised Code or an institution maintained, operated, managed, and governed by the department of mental health and addiction services for the hospitalization of mentally ill persons pursuant to section 5119.14 of the Revised Code;	3400 3401 3402 3403 3404
(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;	3405 3406 3407
(c) An institution or association subject to certification under section 5103.03 of the Revised Code;	3408 3409
(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	3410 3411 3412
(e) <u>A palliative care facility licensed under section 3712.042 of the Revised Code;</u>	3413 3414
<u>(f)</u> A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;	3415 3416
(f) <u>(g)</u> A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code;	3417 3418
(g) <u>(h)</u> Any facility that receives funding for operating	3419

costs from the development services agency under any program 3420
established to provide emergency shelter housing or transitional 3421
housing for the homeless; 3422

~~(h)~~ (i) A terminal care facility for the homeless that has 3423
entered into an agreement with a hospice care program under 3424
section 3712.07 of the Revised Code; 3425

~~(i)~~ (j) A facility approved by the veterans administration 3426
under section 104(a) of the "Veterans Health Care Amendments of 3427
1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used 3428
exclusively for the placement and care of veterans; 3429

~~(j)~~ (k) The residence of a relative or guardian of a 3430
person with mental illness. 3431

(C) Nothing in division (B) of this section shall be 3432
construed to permit personal care services to be imposed on a 3433
resident who is capable of performing the activity in question 3434
without assistance. 3435

(D) Except in the case of a residential facility described 3436
in division (B) (1) (a) of this section, members of the staff of a 3437
residential facility shall not administer medication to the 3438
facility's residents, but may do any of the following: 3439

(1) Remind a resident when to take medication and watch to 3440
ensure that the resident follows the directions on the 3441
container; 3442

(2) Assist a resident in the self-administration of 3443
medication by taking the medication from the locked area where 3444
it is stored, in accordance with rules adopted pursuant to this 3445
section, and handing it to the resident. If the resident is 3446
physically unable to open the container, a staff member may open 3447
the container for the resident. 3448

(3) Assist a physically impaired but mentally alert 3449
resident, such as a resident with arthritis, cerebral palsy, or 3450
Parkinson's disease, in removing oral or topical medication from 3451
containers and in consuming or applying the medication, upon 3452
request by or with the consent of the resident. If a resident is 3453
physically unable to place a dose of medicine to the resident's 3454
mouth without spilling it, a staff member may place the dose in 3455
a container and place the container to the mouth of the 3456
resident. 3457

(E) (1) Except as provided in division (E) (2) of this 3458
section, a person operating or seeking to operate a residential 3459
facility shall apply for licensure of the facility to the 3460
department of mental health and addiction services. The 3461
application shall be submitted by the operator. When applying 3462
for the license, the applicant shall pay to the department the 3463
application fee specified in rules adopted under division (L) of 3464
this section. The fee is nonrefundable. 3465

The department shall send a copy of an application to the 3466
ADAMHS board serving the county in which the person operates or 3467
seeks to operate the facility. The ADAMHS board shall review the 3468
application and provide to the department any information about 3469
the applicant or the facility that the board would like the 3470
department to consider in reviewing the application. 3471

(2) A person may not apply for a license to operate a 3472
residential facility if the person is or has been the owner, 3473
operator, or manager of a residential facility for which a 3474
license to operate was revoked or for which renewal of a license 3475
was refused for any reason other than nonpayment of the license 3476
renewal fee, unless both of the following conditions are met: 3477

(a) A period of not less than two years has elapsed since 3478

the date the director of mental health and addiction services 3479
issued the order revoking or refusing to renew the facility's 3480
license. 3481

(b) The director's revocation or refusal to renew the 3482
license was not based on an act or omission at the facility that 3483
violated a resident's right to be free from abuse, neglect, or 3484
exploitation. 3485

(F) (1) The department of mental health and addiction 3486
services shall inspect and license the operation of residential 3487
facilities. The department shall consider the past record of the 3488
facility and the applicant or licensee in arriving at its 3489
licensure decision. 3490

The department may issue full, probationary, and interim 3491
licenses. A full license shall expire up to three years after 3492
the date of issuance, a probationary license shall expire in a 3493
shorter period of time as specified in rules adopted by the 3494
director of mental health and addiction services under division 3495
(L) of this section, and an interim license shall expire ninety 3496
days after the date of issuance. A license may be renewed in 3497
accordance with rules adopted by the director under division (L) 3498
of this section. The renewal application shall be submitted by 3499
the operator. When applying for renewal of a license, the 3500
applicant shall pay to the department the renewal fee specified 3501
in rules adopted under division (L) of this section. The fee is 3502
nonrefundable. 3503

(2) The department may issue an order suspending the 3504
admission of residents to the facility or refuse to issue or 3505
renew and may revoke a license if it finds any of the following: 3506

(a) The facility is not in compliance with rules adopted 3507

by the director pursuant to division (L) of this section; 3508

(b) Any facility operated by the applicant or licensee has 3509
been cited for a pattern of serious noncompliance or repeated 3510
violations of statutes or rules during the period of current or 3511
previous licenses; 3512

(c) The applicant or licensee submits false or misleading 3513
information as part of a license application, renewal, or 3514
investigation. 3515

Proceedings initiated to deny applications for full or 3516
probationary licenses or to revoke such licenses are governed by 3517
Chapter 119. of the Revised Code. An order issued pursuant to 3518
this division remains in effect during the pendency of those 3519
proceedings. 3520

(G) The department may issue an interim license to operate 3521
a residential facility if both of the following conditions are 3522
met: 3523

(1) The department determines that the closing of or the 3524
need to remove residents from another residential facility has 3525
created an emergency situation requiring immediate removal of 3526
residents and an insufficient number of licensed beds are 3527
available. 3528

(2) The residential facility applying for an interim 3529
license meets standards established for interim licenses in 3530
rules adopted by the director under division (L) of this 3531
section. 3532

An interim license shall be valid for ninety days and may 3533
be renewed by the director no more than twice. Proceedings 3534
initiated to deny applications for or to revoke interim licenses 3535
under this division are not subject to Chapter 119. of the 3536

Revised Code. 3537

(H) (1) The department of mental health and addiction 3538
services may conduct an inspection of a residential facility as 3539
follows: 3540

(a) Prior to issuance of a license for the facility; 3541

(b) Prior to renewal of the license; 3542

(c) To determine whether the facility has completed a plan 3543
of correction required pursuant to division (H) (2) of this 3544
section and corrected deficiencies to the satisfaction of the 3545
department and in compliance with this section and rules adopted 3546
pursuant to it; 3547

(d) Upon complaint by any individual or agency; 3548

(e) At any time the director considers an inspection to be 3549
necessary in order to determine whether the facility is in 3550
compliance with this section and rules adopted pursuant to this 3551
section. 3552

(2) In conducting inspections the department may conduct 3553
an on-site examination and evaluation of the residential 3554
facility and its personnel, activities, and services. The 3555
department shall have access to examine and copy all records, 3556
accounts, and any other documents relating to the operation of 3557
the residential facility, including records pertaining to 3558
residents, and shall have access to the facility in order to 3559
conduct interviews with the operator, staff, and residents. 3560
Following each inspection and review, the department shall 3561
complete a report listing any deficiencies, and including, when 3562
appropriate, a time table within which the operator shall 3563
correct the deficiencies. The department may require the 3564
operator to submit a plan of correction describing how the 3565

deficiencies will be corrected.	3566
(I) No person shall do any of the following:	3567
(1) Operate a residential facility unless the facility holds a valid license;	3568 3569
(2) Violate any of the conditions of licensure after having been granted a license;	3570 3571
(3) Interfere with a state or local official's inspection or investigation of a residential facility;	3572 3573
(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.	3574 3575
(J) The following may enter a residential facility at any time:	3576 3577
(1) Employees designated by the director of mental health and addiction services;	3578 3579
(2) Employees of an ADAMHS board under either of the following circumstances:	3580 3581
(a) When a resident of the facility is receiving services from a community mental health services provider under contract with that ADAMHS board or another ADAMHS board;	3582 3583 3584
(b) When authorized by section 340.05 of the Revised Code.	3585
(3) Employees of a community mental health services provider under either of the following circumstances:	3586 3587
(a) When the provider has a person receiving services residing in the facility;	3588 3589
(b) When the provider is acting as an agent of an ADAMHS board other than the board with which it is under contract.	3590 3591

(4) Representatives of the state long-term care ombudsman program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are recipients under the residential state supplement program.

The persons specified in division (J) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.

(K) Employees of the department of mental health and addiction services may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.

(L) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code governing the licensing and operation of residential facilities. The rules shall establish all of the following:

(1) Minimum standards for the health, safety, adequacy, and cultural competency of treatment of and services for persons in residential facilities;

(2) Procedures for the issuance, renewal, or revocation of the licenses of residential facilities;

(3) Procedures for conducting background investigations for prospective or current operators, employees, volunteers, and other non-resident occupants who may have direct access to facility residents;

(4) The fee to be paid when applying for a new residential facility license or renewing the license;	3621 3622
(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;	3623 3624 3625 3626 3627 3628
(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;	3629 3630 3631
(7) Measures to be taken by residential facilities relative to residents' medication;	3632 3633
(8) Requirements relating to preparation of special diets;	3634
(9) The maximum number of residents who may be served in a residential facility;	3635 3636
(10) The rights of residents of residential facilities and procedures to protect such rights;	3637 3638
(11) Standards and procedures under which the director may waive the requirements of any of the rules adopted.	3639 3640
(M) (1) The department may withhold the source of any complaint reported as a violation of this section when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.	3641 3642 3643 3644 3645 3646 3647 3648

(2) Any person who makes a complaint under division (M) (1) 3649
of this section, or any person who participates in an 3650
administrative or judicial proceeding resulting from such a 3651
complaint, is immune from civil liability and is not subject to 3652
criminal prosecution, other than for perjury, unless the person 3653
has acted in bad faith or with malicious purpose. 3654

(N) (1) The director of mental health and addiction 3655
services may petition the court of common pleas of the county in 3656
which a residential facility is located for an order enjoining 3657
any person from operating a residential facility without a 3658
license or from operating a licensed facility when, in the 3659
director's judgment, there is a present danger to the health or 3660
safety of any of the occupants of the facility. The court shall 3661
have jurisdiction to grant such injunctive relief upon a showing 3662
that the respondent named in the petition is operating a 3663
facility without a license or there is a present danger to the 3664
health or safety of any residents of the facility. 3665

(2) When the court grants injunctive relief in the case of 3666
a facility operating without a license, the court shall issue, 3667
at a minimum, an order enjoining the facility from admitting new 3668
residents to the facility and an order requiring the facility to 3669
assist with the safe and orderly relocation of the facility's 3670
residents. 3671

(3) If injunctive relief is granted against a facility for 3672
operating without a license and the facility continues to 3673
operate without a license, the director shall refer the case to 3674
the attorney general for further action. 3675

(O) The director may fine a person for violating division 3676
(I) of this section. The fine shall be five hundred dollars for 3677
a first offense; for each subsequent offense, the fine shall be 3678

one thousand dollars. The director's actions in imposing a fine 3679
shall be taken in accordance with Chapter 119. of the Revised 3680
Code. 3681

Section 2. That existing sections 109.57, 140.01, 140.08, 3682
1337.11, 2133.01, 2317.54, 3701.881, 3712.01, 3712.09, 3721.01, 3683
3795.01, 3963.01, 4719.01, 4723.36, 4723.481, 4723.487, 4729.43, 3684
4730.202, 4730.411, 4730.53, 4731.055, 4731.228, 4752.02, and 3685
5119.34 of the Revised Code are hereby repealed. 3686

Section 3. Section 4730.53 of the Revised Code is 3687
presented in this act as a composite of the section as amended 3688
by S.B. 110 of the 131st General Assembly and H.B. 394 and S.B. 3689
276 both of the 130th General Assembly. The General Assembly, 3690
applying the principle stated in division (B) of section 1.52 of 3691
the Revised Code that amendments are to be harmonized if 3692
reasonably capable of simultaneous operation, finds that the 3693
composite is the resulting version of the section in effect 3694
prior to the effective date of the section as presented in this 3695
act. 3696