

AN ACT

To amend sections 3721.01, 3721.02, 3721.021, 3721.03, 3721.07, 3721.08, 3721.09, 3721.99, 4723.02, and 4723.48 and to enact sections 3721.051 and 4723.481 of the Revised Code to provide that a county home or district home may be licensed as a residential care facility and, if licensed, the laws and rules governing residential care facilities apply to the home, to permit a licensed practical nurse to perform certain activities relating to intravenous therapy, to make other changes in the law governing intravenous therapy procedures performed by licensed practical nurses, and to maintain the provisions of this act on and after July 1, 2000, by amending the version of section 3721.08 of the Revised Code that takes effect on that date.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3721.01, 3721.02, 3721.021, 3721.03, 3721.07, 3721.08, 3721.09, 3721.99, 4723.02, and 4723.48 be amended and sections 3721.051 and 4723.481 of the Revised Code be enacted to read as follows:

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

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

(b) "Home" also means ~~any~~ both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or

nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.522 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(ii) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

(iv) A habilitation center as defined in section 5123.041 of the Revised Code;

(v) A community alternative home as defined in section 3724.01 of the Revised Code;

(vi) An adult care facility as defined in section 3722.01 of the Revised Code;

(vii) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;

(viii) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(ix) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

(x) 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;

(xi) 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 established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity

was providing care exclusively to members of the religious order;

(xii) A county home or district home that has never been licensed as a residential care facility.

(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.

(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.

(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 adopted under section 3721.04 of the Revised Code.

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

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment

re skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

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

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

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

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

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

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

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

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

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

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

(E) Division (A)(1)(c)(xi) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

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

Sec. 3721.02. The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the director or that the director has reasonable cause to believe is operating as a; nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate ~~his~~ the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

A single facility may be licensed both as a nursing home pursuant to this chapter and as an adult care facility pursuant to Chapter 3722. of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as an adult care facility.

In determining the number of residents in a home for the purpose of

licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(A) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group and all the individuals in the part or unit licensed as a rest home shall be considered as another group;

(B) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(C) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

The director of health shall charge an application fee and an annual renewal licensing and inspection fee of one hundred dollars for each fifty persons or part thereof of a home's licensed capacity. All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

Sec. 3721.021. Every person who operates a home, as defined in section 3721.01 of the Revised Code, and each county home and district home licensed as a residential care facility shall have available in the home for review by prospective patients and residents, their guardians, or other persons assisting in their placement, each inspection report completed pursuant to section 3721.02 of the Revised Code and each statement of deficiencies and plan of correction completed and made available to the public under Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and any rules promulgated under Titles XVIII and XIX, including such reports that result from life safety code and

health inspections during the preceding three years, and shall post prominently within the home a notice of this requirement.

Sec. 3721.03. The director of health shall enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code and may issue orders to secure compliance with the provisions of these sections and the rules adopted under them. ~~He~~ The director may hold hearings, issue subpoenas, compel testimony, and make adjudications. In the event the director finds, upon hearing or opportunity afforded therefor, that any person, firm, partnership, association, ~~or~~ corporation, county home, or district home licensed under section 3721.07 of the Revised Code is in violation of any of the provisions of Chapter 3721. of the Revised Code or rules adopted by the public health council under it; is in violation of any order issued by the director; is not, or any of its principals are not suitable, morally or financially to operate such an institution; or is not furnishing humane, kind, and adequate treatment and care, the director may issue an order revoking the license previously issued by ~~him~~ the director. Upon the issuance of any order of revocation, the person whose license is revoked, or the county home or district home that has its license revoked, may appeal in accordance with Chapter 119. of the Revised Code.

The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as ~~he~~ the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the public health council are empowered to adopt and shall be adopted prior to December 31, 1972. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.

If the ownership of a home is assigned or ~~transferred~~ TRANSFERRED to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section in accordance with Chapter 119. of the Revised Code prior to the effective date of the assignment or transfer.

Sec. 3721.051. No county home or district home licensed under section 3721.07 of the Revised Code shall do any of the following:

(A) Violate any of the conditions or requirements necessary for licensing after the license has been issued;

(B) Continue operation after its license has been revoked by the director of health;

(C) Fail to be open for an inspection, or interfere with an inspection, by a state or local official performing inspection duties under Chapter 3721. of the Revised Code;

(D) Violate any of the provisions of this chapter or any rules adopted thereunder.

Sec. 3721.07. Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, the following requirements or conditions are satisfied or complied with:

(A) The applicant has not been convicted of a felony or a crime involving moral turpitude;

(B) The applicant is not violating any of the rules made by the public health council or any order issued by the director of health;

(C) The buildings in which the home is housed have been approved by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code.

(D) The applicant, if it is an individual, or the principal participants, if it is an association or a corporation, is or are suitable financially and morally to operate a home;

(E) The applicant is equipped to furnish humane, kind, and adequate treatment and care;

(F) The home does not maintain or contain:

(1) Facilities for the performance of major surgical procedures;

(2) Facilities for providing therapeutic radiation;

(3) An emergency ward;

(4) A clinical laboratory unless it is under the supervision of a clinical pathologist who is a licensed physician in this state;

(5) Facilities for radiological examinations unless such examinations are performed only by a person licensed to practice medicine, surgery, or dentistry in this state.

(G) The home does not accept or treat outpatients, except upon the written orders of a physician licensed in this state, maternity cases, boarding children, and does not house transient guests, other than participants in an adult day-care program, for twenty-four hours or less;

(H) The home is in compliance with sections 3721.28 and 3721.29 of

the Revised Code.

When the director issues a license, the license shall remain in effect until revoked by the director or voided at the request of the applicant; provided, there shall be an annual renewal fee payable during the month of January of each calendar year. Any licensed home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that the renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the home's license.

A person whose license is revoked, and a county home or district home that has its license as a residential care facility revoked, for any reason other than nonpayment of the license renewal fee or late fees may not apply for a new license under this chapter until a period of one year following the date of revocation has elapsed.

Any applicant who is denied a license may appeal in accordance with Chapter 119. of the Revised Code.

Sec. 3721.08. (A) As used in this section, "real and present danger" means imminent danger of serious physical or life-threatening harm to one or more occupants of a home.

(B) The director of health may petition the court of common pleas of the county in which the home is located for an order enjoining any person from operating a home without a license or enjoining a county home or district home that has had its license revoked from continuing to operate. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a home without a license or that the county home or district home named in the petition is operating despite the revocation of its license. The court shall have jurisdiction to grant such injunctive relief against the operation of a home without a valid license regardless of whether the home meets essential licensing requirements.

(C) Unless the department of human services or contracting agency has taken action under section 5111.51 of the Revised Code to appoint a temporary manager or seek injunctive relief, if, in the judgment of the director of health, real and present danger exists at any home, the director may petition the court of common pleas of the county in which the home is located for such injunctive relief as is necessary to close the home, transfer one or more occupants to other homes or other appropriate care settings, or otherwise eliminate the real and present danger. The court shall have the jurisdiction to grant such injunctive relief upon a showing that there is real

and present danger.

(D)(1) If the director determines that real and present danger exists at a home and elects not to immediately seek injunctive relief under division (C) of this section, ~~he~~ the director may give written notice of proposed action to the home. The notice shall specify all of the following:

(a) The nature of the conditions giving rise to the real and present danger;

(b) The measures that the director determines the home must take to respond to the conditions;

(c) The date on which the director intends to seek injunctive relief under division (C) of this section if ~~he~~ the director determines that real and present danger exists at the home.

(2) If the home notifies the director, within the time specified pursuant to division (D)(1)(c) of this section, that it believes the conditions giving rise to the real and present danger have been substantially corrected, the director shall conduct an inspection to determine whether real and present danger exists. If the director determines on the basis of the inspection that real and present danger exists, ~~he~~ the director may petition under division (C) of this section for injunctive relief.

(E)(1) If in the judgment of the director of health conditions exist at a home that will give rise to real and present danger if not corrected, the director shall give written notice of proposed action to the home. The notice shall specify all of the following:

(a) The nature of the conditions giving rise to the director's judgment;

(b) The measures that the director determines the home must take to respond to the conditions;

(c) The date, which shall be no less than ten days after the notice is delivered, on which the director intends to seek injunctive relief under division (C) of this section if the conditions are not substantially corrected and ~~he~~ the director determines that a real and present danger exists.

(2) If the home notifies the director, within the period of time specified pursuant to division (E)(1)(c) of this section, that the conditions giving rise to the director's determination have been substantially corrected, the director shall conduct an inspection. If the director determines on the basis of the inspection that the conditions have not been corrected and a real and present danger exists, ~~he~~ the director may petition under division (C) of this section for injunctive relief.

(F)(1) A court that grants injunctive relief under division (C) of this section may also appoint a special master who, subject to division (F)(2) of this section, shall have such powers and authority over the home and length

of appointment as the court considers necessary. Subject to division (F)(2) of this section, the salary of a special master and any costs incurred by a special master shall be the obligation of the home.

(2) No special master shall enter into any employment contract on behalf of a home, or purchase with the home's funds any capital goods totaling more than ten thousand dollars, unless the special master has obtained approval for the contract or purchase from the home's operator or the court.

(G) If the director takes action under division (C), (D), or (E) of this section, ~~he~~ the director may also appoint employees of the department of health to conduct on-site monitoring of the home. Appointment of monitors is not subject to appeal under Chapter 119. or any other section of the Revised Code. No employee of a home for which monitors are appointed, no person employed by the home within the previous two years, and no person who currently has a consulting contract with the department or a home, shall be appointed under this division. Every monitor shall have the professional qualifications necessary to monitor correction of the conditions that give rise to or, in the director's judgment, will give rise to real and present danger. The number of monitors present at a home at any given time shall not exceed one for every fifty residents, or fraction thereof.

(H) On finding that the real and present danger for which injunctive relief was granted under division (C) of this section has been eliminated and that the home's operator has demonstrated the capacity to prevent the real and present danger from recurring, the court shall terminate its jurisdiction over the home and return control and management of the home to the operator. If the real and present danger cannot be eliminated practicably within a reasonable time following appointment of a special master, the court may order the special master to close the home and transfer all residents to other homes or other appropriate care settings.

(I) The director of health shall give notice of proposed action under divisions (D) and (E) of this section to both of the following:

(1) The home's administrator;

(2) If the home is operated by an organization described in subsection 501(c)(3) and tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, the board of trustees of the organization; or, if the home is not operated by such an organization, the owner of the home.

Notices shall be delivered by certified mail or hand delivery. If notices are mailed, they shall be addressed to the persons specified in divisions (I)(1) and (2) of this section, as indicated in the department of health's

records. If they are hand delivered, they shall be delivered to persons who would reasonably appear to the average prudent person to have authority to accept them.

(J) If ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section prior to the effective date of the assignment or transfer.

This is an interim section effective until July 1, 2000.

Sec. 3721.09. Sections 3721.02, 3721.03, 3721.04, 3721.05, 3721.051, 3721.07, and 3721.08 of the Revised Code and the regulations adopted pursuant thereto are not applicable in political subdivisions which ~~the~~ the director of health, by annual certification, determines have adopted and are enforcing their own standards which are equal to or greater in their requirements than those of sections 3721.02, 3721.03, 3721.04, 3721.05, 3721.051, 3721.07, and 3721.08 of the Revised Code and the regulations adopted pursuant thereto. Officials of political subdivisions shall cooperate fully with the director and provide ~~him~~ the director with information which ~~he~~ the director finds necessary in order to make a determination.

Sec. 3721.99. (A) Whoever violates section 3721.021, division (B), (D), or (E) of section 3721.05, division (A), (C), or (D) of section 3721.051, section 3721.06, division (A) of section 3721.22, division (A) or (B) of section 3721.24, or division (E) or (F) of section 3721.30 of the Revised Code shall be fined one hundred dollars for a first offense. For each subsequent offense, the violator shall be fined five hundred dollars.

(B) Whoever violates division (A) or (C) of section 3721.05 or division (B) of section 3721.051 of the Revised Code shall be fined five thousand dollars for a first offense. For each subsequent offense, the violator shall be fined ten thousand dollars.

(C) Whoever violates division (D) of section 3721.031 or division (E) of section 3721.22 of the Revised Code is guilty of registering a false complaint, a misdemeanor of the first degree.

Sec. 4723.02. As used in this chapter:

(A) "Registered nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a registered nurse.

(B) "Practice of nursing as a registered nurse" means providing to individuals and groups nursing care requiring specialized knowledge, judgment, and skill derived from the principles of biological, physical, behavioral, social, and nursing sciences. Such nursing care includes:

(1) Identifying patterns of human responses to actual or potential health

problems amenable to a nursing regimen;

(2) Executing a nursing regimen through the selection, performance, management, and evaluation of nursing actions;

(3) Assessing health status for the purpose of providing nursing care;

(4) Providing health counseling and health teaching;

(5) Administering medications, treatments, and executing regimens prescribed by licensed physicians; dentists; optometrists; podiatrists; or, until January 1, 2010, advanced practice nurses authorized to prescribe under section 4723.56 of the Revised Code;

(6) Teaching, administering, supervising, delegating, and evaluating nursing practice.

(C) "Nursing regimen" may include preventative, restorative, and health promotion activities.

(D) "Assessing health status" means the collection of data through nursing assessment techniques, which may include interviews, observation, and physical evaluations for the purpose of providing nursing care.

(E) "Licensed practical nurse" means an individual who holds a current, valid license issued under this chapter that authorizes the practice of nursing as a licensed practical nurse.

(F) "The practice of nursing as a licensed practical nurse" means providing to individuals and groups nursing care requiring the application of basic knowledge of the biological, physical, behavioral, social, and nursing sciences at the direction of a licensed physician, dentist, podiatrist, optometrist, or registered nurse. Such nursing care includes:

(1) Observation, patient teaching, and care in a diversity of health care settings;

(2) Contributions to the planning, implementation, and evaluation of nursing;

(3) Administration of medications and treatments prescribed by a licensed physician; dentist; optometrist; podiatrist; or, until January 1, 2010, an advanced practice nurse authorized to prescribe under section 4723.56 of the Revised Code, except that administration of intravenous therapy shall be performed only in accordance with section 4723.48 or 4723.481 of the Revised Code. Medications may be administered by a licensed practical nurse upon proof of completion of a course in medication administration approved by the board of nursing.

(4) Administration to an adult of intravenous therapy prescribed by a licensed physician; dentist; optometrist; podiatrist; or, until January 1, 2010, an advanced practice nurse authorized to prescribe under section 4723.56 of the Revised Code, on the condition that the licensed practical nurse is

~~authorized by the board of nursing pursuant to~~ under section 4723.48 or 4723.481 of the Revised Code to perform intravenous therapy and performs intravenous therapy only in accordance with ~~section 4723.48 of the Revised Code~~ those sections.

(G) "Certified registered nurse anesthetist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified registered nurse anesthetist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(H) "Clinical nurse specialist" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a clinical nurse specialist in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(I) "Certified nurse-midwife" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified nurse-midwife in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(J) "Certified nurse practitioner" means a registered nurse who holds a valid certificate of authority issued under this chapter that authorizes the practice of nursing as a certified nurse practitioner in accordance with section 4723.43 of the Revised Code and rules adopted by the board of nursing.

(K) "Physician" means an individual who holds a certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine and surgery or osteopathic medicine and surgery and is practicing in this state.

(L) "Dentist" means an individual who is licensed under Chapter 4715. of the Revised Code to practice dentistry and is practicing in this state.

(M) "Podiatrist" means an individual who holds a certificate issued under Chapter 4731. of the Revised Code authorizing the practice of podiatry and is practicing in this state.

(N) "Collaboration" or "collaborating" means the following:

(1) In the case of a clinical nurse specialist, except as provided in division (N)(3) of this section, or a certified nurse practitioner, that a podiatrist acting within the podiatrist's scope of practice in accordance with section 4731.51 of the Revised Code and with whom the nurse has entered into a standard care arrangement or physician with whom the nurse has entered into a standard care arrangement is continuously available to communicate with the clinical nurse specialist or certified nurse practitioner either in person or by radio, telephone, or other form of telecommunication;

(2) In the case of a certified nurse-midwife, that a physician with whom the certified nurse-midwife has entered into a standard care arrangement is continuously available to communicate with the certified nurse-midwife either in person or by radio, telephone, or other form of telecommunication;

(3) In the case of a clinical nurse specialist whose nursing specialty is mental health or psychiatric mental health, that a physician is continuously available to communicate with the nurse either in person or by radio, telephone, or other form of telecommunication.

(O) "Supervision" means that a certified registered nurse anesthetist is under the direction of a podiatrist acting within the podiatrist's scope of practice in accordance with section 4731.51 of the Revised Code, a dentist acting within the dentist's scope of practice in accordance with Chapter 4715. of the Revised Code, or a physician, and, when administering anesthesia, the certified registered nurse anesthetist is in the immediate presence of the podiatrist, dentist, or physician.

(P) "Standard care arrangement" means a written, formal guide for planning and evaluating a patient's health care that is developed by a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and meets the requirements of section 4723.431 of the Revised Code.

Sec. 4723.48. (A) The board of nursing may authorize a licensed practical nurse to administer to an adult intravenous therapy prescribed by a licensed physician; dentist; optometrist; podiatrist; or, until January 1, 2010, an advanced practice nurse authorized to prescribe under section 4723.56 of the Revised Code, if all of the following are true of the licensed practical nurse:

(1) The nurse has a current, valid license issued under this chapter that includes authorization to administer medications.

(2) The nurse has successfully completed a course in intravenous administration approved by the board of ~~nursing~~ that includes both of the following:

(a) A minimum of forty hours of training that includes all of the following:

(i) The curriculum established by rules adopted by the board of ~~nursing~~ and in effect on January 1, 1999;

(ii) Training in the anatomy and physiology of the cardiovascular system, signs and symptoms of local and systemic complications in the administration of fluids and antibiotic additives, and guidelines for management of these complications;

(iii) Any other training or instruction the board considers appropriate.

(b) A testing component that includes the successful performance of three venipunctures supervised by a physician or registered nurse in a health care setting.

(B) ~~A~~ Except as provided in section 4723.481 of the Revised Code, a licensed practical nurse may perform intravenous therapy only if authorized by the board of nursing pursuant to division (A) of this section and only if it is performed in accordance with this section.

A licensed practical nurse authorized by the board to perform intravenous therapy may perform an intravenous therapy procedure only at the direction of one of the following:

(1) A licensed physician, dentist, optometrist, or podiatrist who, except as provided in division (C)(2) of this section, is present and readily available at the facility where the intravenous therapy procedure is performed;

(2) A registered nurse in accordance with division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section and section 4723.481 of the Revised Code, when a licensed practical nurse authorized by the board to perform intravenous therapy performs an intravenous therapy procedure at the direction of a registered nurse, the registered nurse or another registered nurse shall be readily available at the site where the intravenous therapy is performed, and before the licensed practical nurse initiates the intravenous therapy, the registered nurse shall personally perform an on-site assessment of the individual who is to receive the intravenous therapy.

(2) When a licensed practical nurse authorized by the board to perform intravenous therapy performs an intravenous therapy procedure in a home as defined in section 3721.10 of the Revised Code, or in an intermediate care facility for the mentally retarded as defined in section 5111.20 of the Revised Code, at the direction of a registered nurse or licensed physician, dentist, optometrist, or podiatrist, a registered nurse shall be on the premises of the home or facility or accessible by some form of telecommunication.

(D) No licensed practical nurse shall perform any of the following intravenous therapy procedures:

(1) Initiating or maintaining any of the following:

(a) Blood or blood components;

(b) Solutions for total parenteral nutrition;

(c) Any cancer therapeutic medication including, but not limited to, cancer chemotherapy or an anti-neoplastic agent;

(d) Solutions administered through any central venous line or arterial line or any other line that does not terminate in a peripheral vein, except that a licensed practical nurse authorized by the board to perform intravenous

therapy may maintain the solutions specified in division (D)(6)(a) of this section that are being administered through a central venous line or peripherally inserted central catheter;

(e) Any investigational or experimental medication.

(2) Initiating intravenous therapy in any vein ~~other than~~, except that a licensed practical nurse authorized by the board to perform intravenous therapy may initiate intravenous therapy in accordance with this section in a vein of the hand, forearm, or antecubital fossa;

(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;

(4) Initiating or discontinuing a peripherally inserted central catheter;

(5) Mixing, preparing, or ~~reconstructing~~ reconstituting any medication for intravenous therapy, except that a licensed practical nurse authorized by the board to perform intravenous therapy may prepare or reconstitute an antibiotic additive;

(6) Administering medication via the intravenous route, including all of the following activities:

(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse authorized by the board to ~~administer~~ perform intravenous therapy may ~~initiate~~ do either of the following:

(i) Initiate an intravenous infusion containing one or more of the following elements:

(i) ~~Dextrose~~ dextrose 5%;

(ii) ~~Normal~~ normal saline;

(iii) ~~Lactated~~ lactated ringers;

(iv) ~~Sodium~~ sodium chloride .45%;

(v) ~~Sodium~~ sodium chloride 0.2%;

(vi) ~~Water~~ sterile water.

(ii) Hang subsequent containers of the intravenous solutions specified in division (D)(6)(a) of this section that contain vitamins or electrolytes, if a registered nurse initiated the infusion of that same intravenous solution.

(b) Initiating or maintaining an intravenous piggyback infusion, except that a licensed practical nurse authorized by the board to ~~administer~~ perform intravenous therapy may initiate or maintain an intravenous piggyback infusion containing an antibiotic additive;

(c) Injecting medication via a direct intravenous route, except that a licensed practical nurse authorized by the board to ~~administer~~ perform intravenous therapy may inject heparin or normal saline to flush an intermittent infusion device or heparin lock including, but not limited to,

lus or push.

(7) Aspirating any intravenous line to maintain patency;

(8) Changing tubing on any line ~~other than one that terminates in a peripheral vein~~ including, but not limited to, an arterial line or a central venous line, except that a licensed practical nurse authorized by the board to perform intravenous therapy may change tubing on an intravenous line that terminates in a peripheral vein;

(9) Programming or setting any function of a patient controlled infusion pump.

(E) Notwithstanding division (D) of this section, at the direction of a licensed physician or a registered nurse, a licensed practical nurse authorized by the board to perform intravenous therapy may perform the following activities for the purpose of performing dialysis;

(1) The routine administration and regulation of saline solution for the purpose of maintaining an established fluid plan;

(2) The administration of a heparin dose intravenously;

(3) The administration of a heparin dose peripherally via a fistula needle;

(4) The loading and activation of a constant infusion pump or the intermittent injection of a dose of medication prescribed by a licensed physician for dialysis.

(F) No person shall employ or direct a licensed practical nurse to perform an intravenous therapy procedure without first verifying that the licensed practical nurse ~~has been approved~~ is authorized by the board of ~~nursing~~ to perform intravenous therapy.

(G) The board ~~of nursing~~ shall maintain a registry of the names of licensed practical nurses authorized pursuant to division (A) of this section to perform intravenous therapy.

Sec. 4723.481. (A) A licensed practical nurse may perform on any person any of the intravenous therapy procedures specified in division (B) of this section without receiving authorization to perform intravenous therapy from the board of nursing under section 4723.48 of the Revised Code, if both of the following apply:

(1) The licensed practical nurse acts at the direction of a registered nurse or a licensed physician, dentist, optometrist, or podiatrist and the registered nurse, physician, dentist, optometrist, or podiatrist is on the premises where the procedure is to be performed or accessible by some form of telecommunication.

(2) The licensed practical nurse can demonstrate the knowledge, skills, and ability to perform the procedure safely.

(B) The intravenous therapy procedures that a licensed practical nurse may perform pursuant to division (A) of this section are limited to the following:

(1) Verification of the type of peripheral intravenous solution being administered;

(2) Examination of a peripheral infusion site and the extremity for possible infiltration;

(3) Regulation of a peripheral intravenous infusion according to the prescribed flow rate;

(4) Discontinuation of a peripheral intravenous device at the appropriate time;

(5) Performance of routine dressing changes at the insertion site of a peripheral venous or arterial infusion, peripherally inserted central catheter infusion, or central venous pressure subclavian infusion.

SECTION 2. That existing sections 3721.01, 3721.02, 3721.021, 3721.03, 3721.07, 3721.08, 3721.09, 3721.99, 4723.02, and 4723.48 of the Revised Code are hereby repealed.

SECTION 3. That the version of section 3721.08 of the Revised Code that is scheduled to take effect on July 1, 2000, be amended to read as follows:

Sec. 3721.08. (A) As used in this section, "real and present danger" means imminent danger of serious physical or life-threatening harm to one or more occupants of a home.

(B) The director of health may petition the court of common pleas of the county in which the home is located for an order enjoining any person from operating a home without a license or enjoining a county home or district home that has had its license revoked from continuing to operate. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a home without a license or that the county home or district home named in the petition is operating despite the revocation of its license. The court shall have jurisdiction to grant such injunctive relief against the operation of a home without a valid license regardless of whether the home meets essential licensing requirements.

(C) Unless the department of job and family services or contracting agency has taken action under section 5111.51 of the Revised Code to appoint a temporary manager or seek injunctive relief, if, in the judgment of the director of health, real and present danger exists at any home, the

or may petition the court of common pleas of the county in which the home is located for such injunctive relief as is necessary to close the home, transfer one or more occupants to other homes or other appropriate care settings, or otherwise eliminate the real and present danger. The court shall have the jurisdiction to grant such injunctive relief upon a showing that there is real and present danger.

(D)(1) If the director determines that real and present danger exists at a home and elects not to immediately seek injunctive relief under division (C) of this section, the director may give written notice of proposed action to the home. The notice shall specify all of the following:

(a) The nature of the conditions giving rise to the real and present danger;

(b) The measures that the director determines the home must take to respond to the conditions;

(c) The date on which the director intends to seek injunctive relief under division (C) of this section if the director determines that real and present danger exists at the home.

(2) If the home notifies the director, within the time specified pursuant to division (D)(1)(c) of this section, that it believes the conditions giving rise to the real and present danger have been substantially corrected, the director shall conduct an inspection to determine whether real and present danger exists. If the director determines on the basis of the inspection that real and present danger exists, the director may petition under division (C) of this section for injunctive relief.

(E)(1) If in the judgment of the director of health conditions exist at a home that will give rise to real and present danger if not corrected, the director shall give written notice of proposed action to the home. The notice shall specify all of the following:

(a) The nature of the conditions giving rise to the director's judgment;

(b) The measures that the director determines the home must take to respond to the conditions;

(c) The date, which shall be no less than ten days after the notice is delivered, on which the director intends to seek injunctive relief under division (C) of this section if the conditions are not substantially corrected and the director determines that a real and present danger exists.

(2) If the home notifies the director, within the period of time specified pursuant to division (E)(1)(c) of this section, that the conditions giving rise to the director's determination have been substantially corrected, the director shall conduct an inspection. If the director determines on the basis of the inspection that the conditions have not been corrected and a real and present

danger exists, the director may petition under division (C) of this section for injunctive relief.

(F)(1) A court that grants injunctive relief under division (C) of this section may also appoint a special master who, subject to division (F)(2) of this section, shall have such powers and authority over the home and length of appointment as the court considers necessary. Subject to division (F)(2) of this section, the salary of a special master and any costs incurred by a special master shall be the obligation of the home.

(2) No special master shall enter into any employment contract on behalf of a home, or purchase with the home's funds any capital goods totaling more than ten thousand dollars, unless the special master has obtained approval for the contract or purchase from the home's operator or the court.

(G) If the director takes action under division (C), (D), or (E) of this section, the director may also appoint employees of the department of health to conduct on-site monitoring of the home. Appointment of monitors is not subject to appeal under Chapter 119. or any other section of the Revised Code. No employee of a home for which monitors are appointed, no person employed by the home within the previous two years, and no person who currently has a consulting contract with the department or a home, shall be appointed under this division. Every monitor shall have the professional qualifications necessary to monitor correction of the conditions that give rise to or, in the director's judgment, will give rise to real and present danger. The number of monitors present at a home at any given time shall not exceed one for every fifty residents, or fraction thereof.

(H) On finding that the real and present danger for which injunctive relief was granted under division (C) of this section has been eliminated and that the home's operator has demonstrated the capacity to prevent the real and present danger from recurring, the court shall terminate its jurisdiction over the home and return control and management of the home to the operator. If the real and present danger cannot be eliminated practicably within a reasonable time following appointment of a special master, the court may order the special master to close the home and transfer all residents to other homes or other appropriate care settings.

(I) The director of health shall give notice of proposed action under divisions (D) and (E) of this section to both of the following:

(1) The home's administrator;

(2) If the home is operated by an organization described in subsection 501(c)(3) and tax exempt under subsection 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, the board of

rustees of the organization; or, if the home is not operated by such an organization, the owner of the home.

Notices shall be delivered by certified mail or hand delivery. If notices are mailed, they shall be addressed to the persons specified in divisions (I)(1) and (2) of this section, as indicated in the department of health's records. If they are hand delivered, they shall be delivered to persons who would reasonably appear to the average prudent person to have authority to accept them.

(J) If ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section prior to the effective date of the assignment or transfer.

SECTION 4. That all existing versions of section 3721.08 of the Revised Code are hereby repealed.

SECTION 5. Sections 3 and 4 of this act shall take effect on July 1, 2000.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____