

# AN ACT

To amend sections 109.57, 1337.11, 2133.01, 2305.113, 2305.234, 2317.54, 2711.22, 3701.881, 3701.92, 3701.923, 3701.924, 3701.925, 3701.926, 3701.927, 3701.928, 3701.929, 3712.01, 3712.03, 3712.09, 3712.99, 3721.01, 3793.11, 3795.01, 3963.01, 4503.44, 4719.01, 4723.01, 4723.03, 4723.06, 4723.063, 4723.07, 4723.08, 4723.09, 4723.17, 4723.171, 4723.24, 4723.271, 4723.28, 4723.32, 4723.34, 4723.35, 4723.41, 4723.42, 4723.43, 4723.431, 4723.44, 4723.48, 4723.482, 4723.485, 4723.487, 4723.50, 4723.61, 4723.64, 4723.65, 4723.651, 4723.652, 4723.66, 4723.67, 4723.68, 4723.69, 4723.71, 4723.72, 4723.73, 4723.74, 4723.75, 4723.751, 4723.76, 4723.77, 4723.79, 4723.83, 4723.84, 4723.87, 4723.88, 4723.99, 4752.02, 4759.01, 4759.03, 4759.05, 4759.06, 4759.10, 5111.222, 5111.231, 5111.24, 5111.242, 5111.246, 5111.25, 5111.88, 5111.981, 5119.22, and 5120.55; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 4723.17 (4723.18) and 4723.171 (4723.181); to enact new section 4723.17 and sections 3712.031, 3712.041, 3712.051, 3712.061, 4723.091, 4723.092, 4723.19, 4723.653, and 5111.982; to repeal sections 4723.483, 4723.62, 4723.621, 4723.63, and 4723.78 of the Revised Code; and to amend Section 3.19 of Am. Sub. H.B. 95 of the 125th General Assembly to revise the laws administered by the Board of Nursing and the professionals regulated by the Board; to update statutory references to professional organizations of dietitians; to

extend qualified immunity from civil liability for volunteer services provided by certain behavioral health professionals; to modify the requirements for licensure of methadone treatment programs; to make changes in the laws governing certain Medicaid payments for nursing facility services; to authorize certain assessments of persons with intellectual disabilities residing in intermediate care facilities; to enact "Sarah's Law" regarding the licensure of pediatric respite care programs, to amend the version of section 109.57 of the Revised Code that is scheduled to take effect on January 1, 2014, to continue amendments made by this act to that section; and to declare an emergency.

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

SECTION 1. That sections 109.57, 1337.11, 2133.01, 2305.113, 2305.234, 2317.54, 2711.22, 3701.881, 3701.92, 3701.923, 3701.924, 3701.925, 3701.926, 3701.927, 3701.928, 3701.929, 3712.01, 3712.03, 3712.09, 3712.99, 3721.01, 3793.11, 3795.01, 3963.01, 4503.44, 4719.01, 4723.01, 4723.03, 4723.06, 4723.063, 4723.07, 4723.08, 4723.09, 4723.17, 4723.171, 4723.24, 4723.271, 4723.28, 4723.32, 4723.34, 4723.35, 4723.41, 4723.42, 4723.43, 4723.431, 4723.44, 4723.48, 4723.482, 4723.485, 4723.487, 4723.50, 4723.61, 4723.64, 4723.65, 4723.651, 4723.652, 4723.66, 4723.67, 4723.68, 4723.69, 4723.71, 4723.72, 4723.73, 4723.74, 4723.75, 4723.751, 4723.76, 4723.77, 4723.79, 4723.83, 4723.84, 4723.87, 4723.88, 4723.99, 4752.02, 4759.01, 4759.03, 4759.05, 4759.06, 4759.10, 5111.222, 5111.231, 5111.24, 5111.242, 5111.246, 5111.25, 5111.88, 5111.981, 5119.22, and 5120.55 be amended; sections 4723.17 (4723.18) and 4723.171 (4723.181) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new section 4723.17 and sections 3712.031, 3712.041, 3712.051, 3712.061, 4723.091, 4723.092, 4723.19, 4723.653, and 5111.982 of the Revised Code be enacted to read as follows:

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and

file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence who is not in any other category of child specified in this division, if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a

weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving a misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or involving an adjudication in a case in which a child under eighteen years of age was alleged 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 clerk of the court of common pleas shall include in the report and summary the clerk sends under this division all information described in divisions (A)(2)(a) to (f) of this section regarding a case before the court of appeals that is served by that clerk. The summary shall be written on the standard forms furnished by the superintendent pursuant to division (B) of this section and shall include the following information:

(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;

(b) The style and number of the case;

(c) The date of arrest, offense, summons, or arraignment;

(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;

(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;

(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.

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.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony,

any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement officials of the state and its political subdivisions.

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

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

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

(C)(1) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to be known as the Ohio law enforcement gateway to gather and disseminate information, data, and statistics for the use of law enforcement agencies and for other uses specified in this division. The superintendent may gather, store, retrieve, and disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections.

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

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

(4) The attorney general may adopt rules under Chapter 119. of the Revised Code establishing guidelines for the operation of and participation in the Ohio law enforcement gateway. The rules may include criteria for granting and restricting access to information gathered and disseminated through the Ohio law enforcement gateway. The attorney general shall permit the state medical board and board of nursing to access and view, but not alter, information gathered and disseminated through the Ohio law enforcement gateway.

The attorney general may appoint a steering committee to advise the attorney general in the operation of the Ohio law enforcement gateway that

is comprised of persons who are representatives of the criminal justice agencies in this state that use the Ohio law enforcement gateway and is chaired by the superintendent or the superintendent's designee.

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

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

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

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

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

(E)(1) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code and subject to division (E)(2) of this section, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed or described in division (A)(1), (2), or (3) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

(2) Except as otherwise provided in this division, a rule adopted under division (E)(1) of this section may provide only for the release of information gathered pursuant to division (A) of this section that relates to the conviction of a person, or a person's plea of guilty to, a criminal offense. The superintendent shall not release, and the attorney general shall not adopt any rule under division (E)(1) of this section that permits the release of, any information gathered pursuant to division (A) of this section that relates to an adjudication of a child as a delinquent child, or that relates to a criminal conviction of a person under eighteen years of age if the person's case was transferred back to a juvenile court under division (B)(2) or (3) of section 2152.121 of the Revised Code and the juvenile court imposed a disposition or serious youthful offender disposition upon the person under either division, unless either of the following applies with respect to the

adjudication or conviction:

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

(b) The adjudication or conviction was for a sexually oriented offense, the juvenile court was required to classify the child a juvenile offender registrant for that offense under section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that classification has not been removed.

(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, 5104.012, 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 or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; 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 the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, subject to division (E)(2) of this section, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal



bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, subject to division (E)(2) of this section, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, subject to division (E)(2) of this section, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education or a registered private provider is required to receive information under this section as a prerequisite to employment of an individual pursuant to division (C) of section 3310.58 or section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district or provider only shall accept a certified copy of records of that nature within one year after the date of their issuance by the bureau.

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

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

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

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

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

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

In addition to or in conjunction with any request that is required to be made under section 173.27 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing ombudsperson services to residents of long-term care facilities or recipients of community-based long-term care services, the state long-term care ombudsperson, ombudsperson's designee, or director of health may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing such ombudsperson services, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

In addition to or in conjunction with any request that is required to be made under section 173.394 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency may request that the

superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

In addition to or in conjunction with any request that is required to be made under section 3712.09 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to a pediatric respite care patient, the chief administrator of a pediatric respite care program may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care to a pediatric respite care patient, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

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

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

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

(J) As used in this section:

(1) "Pediatric respite care program" and "pediatric respite care patient" have the same meanings as in section 3712.01 of the Revised Code.

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

~~(2)~~(3) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section

3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

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

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

(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.

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

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

(1) A hospital;

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

(3) A nursing home;

- (4) A home health agency;
- (5) An intermediate care facility for the mentally retarded;
- (6) A regulated community mental health organization.

(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.

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

(L) "Hospice care program" ~~has~~ and "pediatric respite care program" have the same ~~meaning~~ meanings as in section 3712.01 of the Revised Code.

(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.

(N) "Hydration" means fluids that are artificially or technologically administered.

(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(P) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(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.

(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.

(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.

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

(U) "Nutrition" means sustenance that is artificially or technologically administered.

(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:

- (1) Irreversible unawareness of one's being and environment.
- (2) Total loss of cerebral cortical functioning, resulting in the principal

having no capacity to experience pain or suffering.

(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.

(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.

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

(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.

(AA) "Regulated community mental health organization" means a residential facility as defined and licensed under section 5119.22 of the Revised Code or a community mental health agency as defined in section 5122.01 of the Revised Code.

(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 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.

(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.

Sec. 2133.01. Unless the context otherwise requires, as used in sections 2133.01 to 2133.15 of the Revised Code:

(A) "Adult" means an individual who is eighteen years of age or older.

(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.

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

(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;

(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;

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

(D) "Consulting physician" means a physician who, in conjunction with the attending physician of a declarant or other patient, 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 this chapter, to a reasonable degree of medical certainty and in accordance with reasonable medical standards.

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

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

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

(H) "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.

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

(1) A hospital;

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

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

(4) A home health agency and any residential facility where a person is receiving care under the direction of a home health agency;

(5) An intermediate care facility for the mentally retarded.

(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.

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

(L) "Hospice care program" ~~has~~ and "pediatric respite care program" have the same ~~meaning~~ meanings as in section 3712.01 of the Revised Code.

(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.

(N) "Hydration" means fluids that are artificially or technologically administered.

(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(P) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

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

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

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

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

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

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

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

(V) "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.

(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. 2305.113. (A) Except as otherwise provided in this section, an action upon a medical, dental, optometric, or chiropractic claim shall be commenced within one year after the cause of action accrued.

(B)(1) If prior to the expiration of the one-year period specified in division (A) of this section, a claimant who allegedly possesses a medical, dental, optometric, or chiropractic claim gives to the person who is the subject of that claim written notice that the claimant is considering bringing an action upon that claim, that action may be commenced against the person notified at any time within one hundred eighty days after the notice is so given.

(2) An insurance company shall not consider the existence or nonexistence of a written notice described in division (B)(1) of this section in setting the liability insurance premium rates that the company may charge the company's insured person who is notified by that written notice.

(C) Except as to persons within the age of minority or of unsound mind as provided by section 2305.16 of the Revised Code, and except as provided in division (D) of this section, both of the following apply:

(1) No action upon a medical, dental, optometric, or chiropractic claim shall be commenced more than four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim.

(2) If an action upon a medical, dental, optometric, or chiropractic claim

is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim, then, any action upon that claim is barred.

(D)(1) If a person making a medical claim, dental claim, optometric claim, or chiropractic claim, in the exercise of reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within three years after the occurrence of the act or omission, but, in the exercise of reasonable care and diligence, discovers the injury resulting from that act or omission before the expiration of the four-year period specified in division (C)(1) of this section, the person may commence an action upon the claim not later than one year after the person discovers the injury resulting from that act or omission.

(2) If the alleged basis of a medical claim, dental claim, optometric claim, or chiropractic claim is the occurrence of an act or omission that involves a foreign object that is left in the body of the person making the claim, the person may commence an action upon the claim not later than one year after the person discovered the foreign object or not later than one year after the person, with reasonable care and diligence, should have discovered the foreign object.

(3) A person who commences an action upon a medical claim, dental claim, optometric claim, or chiropractic claim under the circumstances described in division (D)(1) or (2) of this section has the affirmative burden of proving, by clear and convincing evidence, that the person, with reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within the three-year period described in division (D)(1) of this section or within the one-year period described in division (D)(2) of this section, whichever is applicable.

(E) As used in this section:

(1) "Hospital" includes any person, corporation, association, board, or authority that is responsible for the operation of any hospital licensed or registered in the state, including, but not limited to, those that are owned or operated by the state, political subdivisions, any person, any corporation, or any combination of the state, political subdivisions, persons, and corporations. "Hospital" also includes any person, corporation, association, board, entity, or authority that is responsible for the operation of any clinic that employs a full-time staff of physicians practicing in more than one recognized medical specialty and rendering advice, diagnosis, care, and treatment to individuals. "Hospital" does not include any hospital operated by the government of the United States or any of its branches.

(2) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board or a person who otherwise is authorized to practice medicine and surgery or osteopathic medicine and surgery in this state.

(3) "Medical claim" means any claim that is asserted in any civil action against a physician, podiatrist, hospital, home, or residential facility, against any employee or agent of a physician, podiatrist, hospital, home, or residential facility, or against a licensed practical nurse, registered nurse, advanced practice registered nurse, physical therapist, physician assistant, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, and that arises out of the medical diagnosis, care, or treatment of any person. "Medical claim" includes the following:

(a) Derivative claims for relief that arise from the medical diagnosis, care, or treatment of a person;

(b) Claims that arise out of the medical diagnosis, care, or treatment of any person and to which either of the following applies:

(i) The claim results from acts or omissions in providing medical care.

(ii) The claim results from the hiring, training, supervision, retention, or termination of caregivers providing medical diagnosis, care, or treatment.

(c) Claims that arise out of the medical diagnosis, care, or treatment of any person and that are brought under section 3721.17 of the Revised Code.

(4) "Podiatrist" means any person who is licensed to practice podiatric medicine and surgery by the state medical board.

(5) "Dentist" means any person who is licensed to practice dentistry by the state dental board.

(6) "Dental claim" means any claim that is asserted in any civil action against a dentist, or against any employee or agent of a dentist, and that arises out of a dental operation or the dental diagnosis, care, or treatment of any person. "Dental claim" includes derivative claims for relief that arise from a dental operation or the dental diagnosis, care, or treatment of a person.

(7) "Derivative claims for relief" include, but are not limited to, claims of a parent, guardian, custodian, or spouse of an individual who was the subject of any medical diagnosis, care, or treatment, dental diagnosis, care, or treatment, dental operation, optometric diagnosis, care, or treatment, or chiropractic diagnosis, care, or treatment, that arise from that diagnosis, care, treatment, or operation, and that seek the recovery of damages for any of the following:

(a) Loss of society, consortium, companionship, care, assistance,

attention, protection, advice, guidance, counsel, instruction, training, or education, or any other intangible loss that was sustained by the parent, guardian, custodian, or spouse;

(b) Expenditures of the parent, guardian, custodian, or spouse for medical, dental, optometric, or chiropractic care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations provided to the individual who was the subject of the medical diagnosis, care, or treatment, the dental diagnosis, care, or treatment, the dental operation, the optometric diagnosis, care, or treatment, or the chiropractic diagnosis, care, or treatment.

(8) "Registered nurse" means any person who is licensed to practice nursing as a registered nurse by the board of nursing.

(9) "Chiropractic claim" means any claim that is asserted in any civil action against a chiropractor, or against any employee or agent of a chiropractor, and that arises out of the chiropractic diagnosis, care, or treatment of any person. "Chiropractic claim" includes derivative claims for relief that arise from the chiropractic diagnosis, care, or treatment of a person.

(10) "Chiropractor" means any person who is licensed to practice chiropractic by the state chiropractic board.

(11) "Optometric claim" means any claim that is asserted in any civil action against an optometrist, or against any employee or agent of an optometrist, and that arises out of the optometric diagnosis, care, or treatment of any person. "Optometric claim" includes derivative claims for relief that arise from the optometric diagnosis, care, or treatment of a person.

(12) "Optometrist" means any person licensed to practice optometry by the state board of optometry.

(13) "Physical therapist" means any person who is licensed to practice physical therapy under Chapter 4755. of the Revised Code.

(14) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(15) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code.

(16) "Advanced practice registered nurse" means any certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under Chapter 4723. of the Revised Code.

(17) "Licensed practical nurse" means any person who is licensed to practice nursing as a licensed practical nurse by the board of nursing pursuant to Chapter 4723. of the Revised Code.

(18) "Physician assistant" means any person who holds a valid certificate to practice issued pursuant to Chapter 4730. of the Revised Code.

(19) "Emergency medical technician-basic," "emergency medical technician-intermediate," and "emergency medical technician-paramedic" means any person who is certified under Chapter 4765. of the Revised Code as an emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, whichever is applicable.

Sec. 2305.234. (A) As used in this section:

(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.

(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.

(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;

(f) Chiropractors licensed under Chapter 4734. of the Revised Code;

(g) Optometrists licensed under Chapter 4725. of the Revised Code;

(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;

(i) Dietitians licensed under Chapter 4759. of the Revised Code;

(j) Pharmacists licensed under Chapter 4729. of the Revised Code;

(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;

(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code;

(n) Professional clinical counselors, professional counselors, independent social workers, social workers, independent marriage and family therapists, and marriage and family therapists, licensed under Chapter 4757. of the Revised Code;

(o) Psychologists licensed under Chapter 4732. of the Revised Code;

(p) Independent chemical dependency counselors, chemical dependency counselors III, chemical dependency counselors II, and chemical dependency counselors I, licensed under Chapter 4758. of the Revised Code.

(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.

(7) "Indigent and uninsured person" means a person who meets all of the following requirements:

(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended.

(b) The person is not eligible to receive medical assistance under Chapter 5111. of the Revised Code or assistance under any other governmental health care program.

(c) Either of the following applies:

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan.

(ii) The person is a policyholder, certificate holder, insured, contract

holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency or bankruptcy proceedings in any jurisdiction.

(8) "Nonprofit health care referral organization" means an entity that is not operated for profit and refers patients to, or arranges for the provision of, health-related diagnosis, care, or treatment by a health care professional or health care worker.

(9) "Operation" means any procedure that involves cutting or otherwise infiltrating human tissue by mechanical means, including surgery, laser surgery, ionizing radiation, therapeutic ultrasound, or the removal of intraocular foreign bodies. "Operation" does not include the administration of medication by injection, unless the injection is administered in conjunction with a procedure infiltrating human tissue by mechanical means other than the administration of medicine by injection. "Operation" does not include routine dental restorative procedures, the scaling of teeth, or extractions of teeth that are not impacted.

(10) "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 or government entities.

(11) "Volunteer" means an individual who provides any medical, dental, or other health-care related diagnosis, care, or treatment without the expectation of receiving and without receipt of any compensation or other form of remuneration from an indigent and uninsured person, another person on behalf of an indigent and uninsured person, any health care facility or location, any nonprofit health care referral organization, or any other person or government entity.

(12) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(13) "Deep sedation" means a drug-induced depression of consciousness during which a patient cannot be easily aroused but responds purposefully following repeated or painful stimulation, a patient's ability to independently maintain ventilatory function may be impaired, a patient may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate, and cardiovascular function is usually maintained.

(14) "General anesthesia" means a drug-induced loss of consciousness during which a patient is not arousable, even by painful stimulation, the ability to independently maintain ventilatory function is often impaired, a patient often requires assistance in maintaining a patent airway, positive pressure ventilation may be required because of depressed spontaneous

ventilation or drug-induced depression of neuromuscular function, and cardiovascular function may be impaired.

(B)(1) Subject to divisions (F) and (G)(3) of this section, a health care professional who is a volunteer and complies with division (B)(2) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the volunteer in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, including the provision of samples of medicine and other medical products, unless the action or omission constitutes willful or wanton misconduct.

(2) To qualify for the immunity described in division (B)(1) of this section, a health care professional shall do all of the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and uninsured person is mentally capable of giving informed consent to the provision of the diagnosis, care, or treatment and is not subject to duress or under undue influence;

(b) Inform the person of the provisions of this section, including notifying the person that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot hold the health care professional liable for damages in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, unless the action or omission of the health care professional constitutes willful or wanton misconduct;

(c) Obtain the informed consent of the person and a written waiver, signed by the person or by another individual on behalf of and in the presence of the person, that states that the person is mentally competent to give informed consent and, without being subject to duress or under undue influence, gives informed consent to the provision of the diagnosis, care, or treatment subject to the provisions of this section. A written waiver under division (B)(2)(c) of this section shall state clearly and in conspicuous type that the person or other individual who signs the waiver is signing it with full knowledge that, by giving informed consent to the provision of the diagnosis, care, or treatment, the person cannot bring a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, against the health care professional unless the action or omission of the health care professional constitutes willful or wanton misconduct.



(3) A physician or podiatrist who is not covered by medical malpractice insurance, but complies with division (B)(2) of this section, is not required to comply with division (A) of section 4731.143 of the Revised Code.

(C) Subject to divisions (F) and (G)(3) of this section, health care workers who are volunteers are not liable in damages to any person or government entity in a tort or other civil action, including an action upon a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care worker in the provision to an indigent and uninsured person of medical, dental, or other health-related diagnosis, care, or treatment, unless the action or omission constitutes willful or wanton misconduct.

(D) Subject to divisions (F) and (G)(3) of this section, a nonprofit health care referral organization is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the nonprofit health care referral organization in referring indigent and uninsured persons to, or arranging for the provision of, medical, dental, or other health-related diagnosis, care, or treatment by a health care professional described in division (B)(1) of this section or a health care worker described in division (C) of this section, unless the action or omission constitutes willful or wanton misconduct.

(E) Subject to divisions (F) and (G)(3) of this section and to the extent that the registration requirements of section 3701.071 of the Revised Code apply, a health care facility or location associated with a health care professional described in division (B)(1) of this section, a health care worker described in division (C) of this section, or a nonprofit health care referral organization described in division (D) of this section is not liable in damages to any person or government entity in a tort or other civil action, including an action on a medical, dental, chiropractic, optometric, or other health-related claim, for injury, death, or loss to person or property that allegedly arises from an action or omission of the health care professional or worker or nonprofit health care referral organization relative to the medical, dental, or other health-related diagnosis, care, or treatment provided to an indigent and uninsured person on behalf of or at the health care facility or location, unless the action or omission constitutes willful or wanton misconduct.

(F)(1) Except as provided in division (F)(2) of this section, the immunities provided by divisions (B), (C), (D), and (E) of this section are

not available to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location if, at the time of an alleged injury, death, or loss to person or property, the health care professionals or health care workers involved are providing one of the following:

(a) Any medical, dental, or other health-related diagnosis, care, or treatment pursuant to a community service work order entered by a court under division (B) of section 2951.02 of the Revised Code or imposed by a court as a community control sanction;

(b) Performance of an operation to which any one of the following applies:

(i) The operation requires the administration of deep sedation or general anesthesia.

(ii) The operation is a procedure that is not typically performed in an office.

(iii) The individual involved is a health care professional, and the operation is beyond the scope of practice or the education, training, and competence, as applicable, of the health care professional.

(c) Delivery of a baby or any other purposeful termination of a human pregnancy.

(2) Division (F)(1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency.

(G)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment.

(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers.

(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral

organization to comply with any applicable law of this state or rule of an agency of this state.

(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, housing, air pollution, water pollution, sanitation, health, fire, zoning, or safety.

Sec. 2317.54. No hospital, home health agency, ambulatory surgical facility, or provider of a hospice care program or pediatric respite care program shall be held liable for a physician's failure to obtain an informed consent from the physician's patient prior to a surgical or medical procedure or course of procedures, unless the physician is an employee of the hospital, home health agency, ambulatory surgical facility, or provider of a hospice care program or pediatric respite care program.

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

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

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

(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" ~~has~~ and "pediatric respite care program" have the same ~~meaning~~ 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. 2711.22. (A) Except as otherwise provided in this section, a written contract between a patient and a hospital or healthcare provider to settle by binding arbitration any dispute or controversy arising out of the diagnosis, treatment, or care of the patient rendered by a hospital or healthcare provider, that is entered into prior to the diagnosis, treatment, or care of the patient is valid, irrevocable, and enforceable once the contract is signed by all parties. The contract remains valid, irrevocable, and enforceable until or unless the patient or the patient's legal representative rescinds the contract by written notice within thirty days of the signing of the contract. A guardian or other legal representative of the patient may give written notice of the rescission of the contract if the patient is incapacitated or a minor.

(B) As used in this section and in sections 2711.23 and 2711.24 of the Revised Code:

(1) "Healthcare provider" means a physician, podiatrist, dentist, licensed practical nurse, registered nurse, advanced practice registered nurse, chiropractor, optometrist, physician assistant, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, or physical therapist.

(2) "Hospital," "physician," "podiatrist," "dentist," "licensed practical nurse," "registered nurse," "advanced practice registered nurse," "chiropractor," "optometrist," "physician assistant," "emergency medical

technician-basic," "emergency medical technician-intermediate," "emergency medical technician-paramedic," "physical therapist," "medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.

Sec. 3701.881. (A) As used in this section:

(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.

(2) "Community-based long-term care agency" has the same meaning as in section 173.39 of the Revised Code.

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

(4) "Direct care" means any of the following:

(a) Any service identified in divisions (A)(7)(a) to (f) of this section that is provided in a patient's place of residence used as the patient's home;

(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;

(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.

(5) "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.

(6) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.

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

(a) Skilled nursing care;

(b) Physical therapy;

(c) Speech-language pathology;

(d) Occupational therapy;

(e) Medical social services;

(f) Home health aide services.

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

- (a) Hands-on bathing or assistance with a tub bath or shower;
- (b) Assistance with dressing, ambulation, and toileting;
- (c) Catheter care but not insertion;
- (d) Meal preparation and feeding.

(9) "Hospice care program" ~~has~~ and "pediatric respite care program" have the same ~~meaning~~ meanings as in section 3712.01 of the Revised Code.

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

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

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

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

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

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

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

(17) "Waiver agency" has the same meaning as in section 5111.033 of the Revised Code.

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

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

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

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

(c) That the applicant or employee is included in one or more of the

databases, if any, specified in rules adopted under this section and the rules prohibit the home health agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing direct care to an individual.

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

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

(C) Except as provided by division (F) of this section, the chief administrator of a home health agency shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the home health agency by an employment service for a position that involves providing direct care to an individual:

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

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

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

(1) The excluded parties list system maintained by the United States general services administration pursuant to subpart 9.4 of the federal

acquisition regulation;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of MR/DD employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant. If rules adopted under this section so require, the chief administrator of a home health agency shall request the superintendent to conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to request the criminal records check of the applicant or the employee if division (F) of this section applies or the home health agency is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing direct care to an individual. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof that the



applicant or employee has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

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

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

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

(c) Forward the completed form and standard impression sheet to the superintendent at the time the chief administrator requests the criminal records check.

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

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

(b) The medicaid program established under Chapter 5111. of the Revised Code does not reimburse the home health agency for the fee it pays to the bureau under this section.

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

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

(2) The chief administrator of the home health agency receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the

following:

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

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

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

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

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

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

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

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

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

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

(3) A home health agency that employs an applicant conditionally pursuant to division (G)(1)(a) or (b) of this section shall terminate the applicant's employment if the results of the criminal records check, other

than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the home health agency shall terminate the applicant's employment unless circumstances specified in rules adopted under this section that permit the agency to employ the applicant exist and the agency chooses to employ the applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the home health agency about the applicant's criminal record.

(H) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The home health agency requesting the criminal records check or its representative;

(3) The administrator of any other facility, agency, or program that provides direct care to individuals that is owned or operated by the same entity that owns or operates the home health agency that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) The director of health and the staff of the department of health who monitor a home health agency's compliance with this section;

(6) The director of aging or the director's designee 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 community-based long-term care 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 community-based long-term care agency.

(7) The director of job and family services and the staff of the

department of job and family services 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 agency employs in a position that involves providing direct care to an individual, all of the following shall apply:

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

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

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

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

(1) The rules may do the following:

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

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

employees from the requirements;

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

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

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

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

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

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

Sec. 3701.92. As used in sections 3701.921 to 3701.929 of the Revised Code:

(A) "Advanced practice registered nurse" has the same meaning as in section 4723.01 of the Revised Code.

(B) "Patient centered medical home education advisory group" means the entity established under section 3701.924 of the Revised Code.

~~(D)~~(C) "Patient centered medical home education program" means the program established under section 3701.921 of the Revised Code and any pilot projects operated pursuant to that section.

~~(E)~~(D) "Patient centered medical home education pilot project" means the pilot project established under section 3701.923 of the Revised Code.

~~(F)~~(E) "Physician assistant" has the same meaning as in section 4730.01 of the Revised Code.

Sec. 3701.923. (A) To the extent that funds are available, the director of health shall establish the patient centered medical home education pilot project. If the director establishes the project, all of the following apply:

(1) The director shall select practices led by physicians and primary care practices led by advanced practice registered nurses to participate in the project. The director may consider the recommendations of the advisory group made in accordance with section 3701.925 of the Revised Code, but may not select a practice unless the practice complies with any applicable

requirements under section 3701.926 of the Revised Code.

(2) The director shall conduct the project in a manner that advances education in the patient centered medical home model of care.

(3) The director shall evaluate all of the following:

(a) Learning opportunities generated by the project;

(b) Training of physicians and advanced practice registered nurses under the project;

(c) Costs of the project;

(d) The extent to which the project met the expected outcomes developed under division (A) of section 3701.924 of the Revised Code.

(4) The director shall assess and review results of the project.

(5) The director shall recommend best practices and opportunities for improving technology, education, comprehensive training, consultation, and technical assistance for health care service providers in the patient centered medical home model of care.

(B) The director may contract with an entity that has significant experience in assisting ~~physician-led~~ practices led by physicians and ~~advanced practice nurse-led~~ primary care practices led by advanced practice registered nurses in transitioning to the patient centered medical home model of care. The contract shall require the entity to do both of the following:

(1) Provide, to each practice that enters into a contract with the director pursuant to section 3701.927 of the Revised Code, comprehensive training, consultation, and technical assistance in the operation of a patient centered medical home, including assistance with leadership training, scheduling changes, staff support, and care management for chronic health conditions;

(2) Assist the director in identifying necessary financial and operational requirements and any barriers or challenges associated with transitioning to a patient centered medical home model of care.

(C) The project established under this section shall begin not later than the date the first practice enters into a contract with the director pursuant to section 3701.927 of the Revised Code and shall cease not later than the date the final report is submitted pursuant to division (B)(3) of section 3701.929 of the Revised Code.

(D) The project shall not be operated in a manner that requires a patient, unless otherwise required by the Revised Code, to receive a referral from a physician in a practice selected for inclusion in the pilot project under division (A)(1) of this section as a condition of being authorized to receive specialized health care services from an individual licensed or certified under Title XLVII of the Revised Code to provide those services.

Sec. 3701.924. (A) The patient centered medical home education advisory group is hereby created for the purpose of advising the director of health on the implementation and administration of the patient centered medical home education program. The advisory group shall develop and provide to the director a set of expected outcomes for the pilot project. The advisory group shall consider and provide other recommendations to the director and complete other duties as the director considers appropriate.

(B) The advisory group shall consist of the following members:

(1) The following members appointed by the director of health:

(a) One individual with expertise in the training and education of primary care physicians recommended by the dean of the university of Toledo college of medicine;

(b) One individual with expertise in the training and education of primary care physicians recommended by the dean of the Boonshoft school of medicine at Wright state university;

(c) One individual with expertise in the training and education of primary care physicians recommended by the president and dean of the northeast Ohio medical university;

(d) One individual with expertise in the training and education of primary care physicians recommended by the dean of the Ohio university college of osteopathic medicine;

(e) Two individuals recommended by the governing board of the Ohio academy of family physicians;

(f) One individual recommended by the governing board of the Ohio chapter of the American college of physicians;

(g) One individual recommended by the governing board of the Ohio chapter of the American academy of pediatrics;

(h) One individual recommended by the governing board of the Ohio osteopathic association;

(i) One individual with expertise in the training and education of advanced practice registered nurses, recommended by the governing board of the Ohio council of deans and directors of baccalaureate and higher degree programs in nursing;

(j) One individual recommended by the governing board of the Ohio nurses association;

(k) One individual recommended by the governing board of the Ohio association of advanced practice nurses;

(l) One individual recommended by the governing board of the Ohio council for home care and hospice;

(m) One individual recommended by the superintendent of insurance;

(n) An employee of the department of health;  
(o) Not more than five additional members who have relevant expertise that the director considers appropriate.

(2) The following members:

(a) The executive director of the state medical board or the director's designee;

(b) The executive director of the board of nursing or the director's designee;

(c) The chancellor of the Ohio board of regents or the chancellor's designee;

(d) The medical assistance director, or the director's designee.

(C)(1) In making the original appointments of the members specified in divisions (B)(1)(a) to (m) of this section, the director shall appoint the member who served in that capacity in the patient centered medical home advisory group, as it existed immediately prior to ~~the effective date of this section~~ September 10, 2012. If for any reason the member who served immediately prior to ~~the effective date of this section~~ September 10, 2012, is unable to serve on the advisory group, the director shall request from the specified recommending authority a list of not less than two persons qualified to serve as members of the advisory group. The director shall appoint as a member one person from the list submitted by the recommending authority.

(2) The advisory group members specified in divisions (B)(1)(a) to (m) of this section shall serve at the pleasure of the director, in consultation with their respective recommending authorities.

(3) Vacancies shall be filled in the manner provided for original appointments.

(D) Members shall serve without compensation, except to the extent that serving on the advisory group is considered part of their regular employment duties.

(E) The director may appoint from the members of the advisory group a chairperson and vice-chairperson.

A majority of the members of the advisory group constitutes a quorum. A majority of a quorum is necessary for the advisory group to make any recommendations to the director.

The advisory group shall meet at the call of the director. The director shall call the advisory group to meet not less than annually to discuss or consider recommendations to the director on the administration of the patient centered medical home education program.

(F) Sections 101.82 to 101.87 of the Revised Code do not apply to the



advisory group.

Sec. 3701.925. (A) The patient centered medical home education advisory group shall accept applications for inclusion in the patient centered medical home education pilot project from primary care practices with educational affiliations, as determined by the advisory group, with one or more of the following:

- (1) The Boonshoft school of medicine at Wright state university;
- (2) The university of Toledo college of medicine;
- (3) The northeast Ohio medical university;
- (4) The Ohio university college of osteopathic medicine;
- (5) The college of nursing at the university of Toledo;
- (6) The Wright state university college of nursing and health;
- (7) The college of nursing at Kent state university;
- (8) The university of Akron college of nursing;
- (9) The school of nursing at Ohio university.

(B)(1) Subject to division (C)(1) of this section, the advisory group shall recommend to the director of health for inclusion in the pilot project not less than the following number of primary care practices led by physicians:

- (a) Ten practices affiliated with the Boonshoft school of medicine at Wright state university;
- (b) Ten practices affiliated with the university of Toledo college of medicine;
- (c) Ten practices affiliated with the northeast Ohio medical university;
- (d) Ten practices affiliated with the centers for osteopathic research and education of the Ohio university college of osteopathic medicine.

(2) Subject to division (C)(2) of this section, the advisory group shall recommend to the director of health for inclusion in the pilot project not less than the following number of primary care practices led by advanced practice registered nurses:

- (a) One practice affiliated with the college of nursing at the university of Toledo;
- (b) One practice affiliated with the Wright state university college of nursing and health;
- (c) One practice affiliated with the college of nursing at Kent state university or the university of Akron college of nursing;
- (d) One practice affiliated with the school of nursing at Ohio university.

(C)(1) All of the following apply with respect to the recommendation ~~of physician-led practices~~ under division (B)(1) of this section of practices led by physicians:

- (a) The advisory group shall strive to recommend ~~physician-led~~

practices in such a manner that the pilot project includes a diverse range of primary care specialties, including practices specializing in pediatrics, geriatrics, general internal medicine, or family medicine.

(b) When evaluating an application, the advisory group shall consider the percentage of patients in the ~~physician-led~~ practice who are part of a medically underserved population, including medicaid recipients and individuals without health insurance.

(c) The advisory group shall recommend not fewer than six practices that serve rural areas of this state, as those areas are determined by the advisory group.

(d) A member of the advisory group shall abstain from participating in any vote taken regarding the recommendation of a ~~physician-led~~ practice if the member would receive any financial benefit from having the practice included in the pilot project.

(2) All of the following apply with respect to the recommendation of ~~advanced practice nurse-led primary care practices~~ under division (B)(2) of this section of practices led by advanced practice registered nurses:

(a) When evaluating an application, the advisory group shall consider the percentage of patients in the ~~advanced practice nurse-led primary care~~ practice who are part of a medically underserved population, including medicaid recipients and individuals without health insurance.

(b) If the advisory group determines that it has not received an application from a sufficiently qualified ~~advanced practice nurse-led primary care~~ practice affiliated with a particular institution specified in division (B)(2) of this section, the advisory group shall make the recommendations required under that division in such a manner that the greatest possible number of those institutions are recommended to be included in the pilot project. To be recommended in this manner, a practice remains subject to the eligibility requirements specified in division (B) of section 3701.926 of the Revised Code. As specified in division (B)(2) of this section, the number of practices recommended for inclusion in the pilot project shall be at least four.

(c) A member of the advisory group shall abstain from participating in any vote taken regarding the recommendation of ~~an advanced practice nurse-led primary care~~ a practice if the member would receive any financial benefit from having the practice included in the pilot project.

(D) The advisory group shall provide a copy to the director of health ~~copies of all applications received under this section to the director of health after making recommendations under division (B)(1) of this section.~~

Sec. 3701.926. (A) To be eligible for inclusion in the patient centered

medical home education pilot project, a ~~physician-led~~ primary care practice led by physicians shall meet all of the following requirements:

(1) Consist of physicians who are board-certified in family medicine, general pediatrics, or internal medicine, as those designations are issued by a medical specialty certifying board recognized by the American board of medical specialties or American osteopathic association;

(2) Be capable of adapting the practice during the period in which the practice participates in the patient centered medical home education pilot project in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the director of health;

(3) Have submitted an application to participate in the project established under former section 185.05 of the Revised Code not later than April 15, 2011.

(4) Meet any other criteria established by the director as part of the selection process.

(B) To be eligible for inclusion in the pilot project, ~~an advanced practice nurse-led~~ a primary care practice led by advanced practice registered nurses shall meet all of the following requirements:

(1) Consist of advanced practice registered nurses, each of whom meets all of the following requirements:

(a) Holds a certificate to prescribe issued under section 4723.48 of the Revised Code;

(b) Is board-certified as a family nurse practitioner or adult nurse practitioner by the American academy of nurse practitioners or American nurses credentialing center, board-certified as a geriatric nurse practitioner or women's health nurse practitioner by the American nurses credentialing center, or is board-certified as a pediatric nurse practitioner by the American nurses credentialing center or pediatric nursing certification board;

(c) Collaborates under a standard care arrangement with a physician with board certification as specified in division (A)(1) of this section and who is an active participant on the health care team.

(2) Be capable of adapting the ~~primary care~~ practice during the period in which the practice participates in the project in such a manner that the practice is fully compliant with the minimum standards for operation of a patient centered medical home, as those standards are established by the director;

(3) Have submitted an application to participate in the project established under former section 185.05 of the Revised Code not later than April 15, 2011.

(4) Meet any other criteria established by the director as part of the selection process.

Sec. 3701.927. The director of health shall enter into a contract with each primary care practice selected by the director for inclusion in the patient centered medical home education pilot project. The contract shall specify the terms and conditions for inclusion in the pilot project, including a requirement that the practice provide comprehensive, coordinated primary care services to patients and serve as the patients' medical home. The contract shall also require the practice to participate in the training of medical students, advanced practice registered nursing students, physician assistant students, and primary care medical residents.

The director may include as part of the contract any other requirements necessary for a practice to be included in the project, including requirements regarding the number of patients served who are medicaid recipients and individuals without health insurance.

Sec. 3701.928. (A) The director of health or, at the director's request, the patient centered medical home education advisory group may work with medical, nursing, and physician assistant schools or programs in this state to develop appropriate curricula designed to prepare primary care physicians, advanced practice registered nurses, and physician assistants to practice within the patient centered medical home model of care. In developing the curricula, the director or advisory group and the schools or programs shall include all of the following:

(1) Components for use at the medical student, advanced practice registered nursing student, physician assistant student, and primary care resident training levels;

(2) Components that reflect, as appropriate, the special needs of patients who are part of a medically underserved population, including medicaid recipients, individuals without health insurance, individuals with disabilities, individuals with chronic health conditions, and individuals within racial or ethnic minority groups;

(3) Components that include training in interdisciplinary cooperation between physicians, advanced practice registered nurses, and physician assistants in the patient centered medical home model of care, including curricula ensuring that a common conception of a patient centered medical home model of care is provided to medical students, advanced practice registered nurses, physician assistants, and primary care residents.

(B) The director or advisory group may work in association with the medical, nursing, and physician assistant schools or programs to identify funding sources to ensure that the curricula developed under division (A) of

this section are accessible to medical students, advanced practice registered nursing students, physician assistant students, and primary care residents. The director or advisory group shall consider scholarship options or incentives provided to students in addition to those provided under the choose Ohio first scholarship program operated under section 3333.61 of the Revised Code.

Sec. 3701.929. (A) If the director of health establishes the patient centered medical home education pilot project, the director shall prepare reports of its findings and recommendations from the pilot project. Each report shall include an evaluation of the learning opportunities generated by the pilot project, the physicians and advanced practice registered nurses trained in the pilot project, the costs of the pilot project, and the extent to which the pilot project has met the set of expected outcomes developed under division (A) of section 3701.924 of the Revised Code.

(B) The reports shall be completed in accordance with the following schedule:

(1) An interim report not later than six months after the date on which the last primary care practice selected to participate in the project enters into a contract with the department of health pursuant to section 3701.927 of the Revised Code;

(2) An update of the interim report not later than one year after the date specified under division (B)(1) of this section;

(3) A final report not later than two years after the date specified under division (B)(1) of this section.

(C) The director shall submit each of the reports to the governor and, in accordance with section 101.68 of the Revised Code, to the general assembly.

Sec. 3712.01. As used in this chapter:

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

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

(2) Physical, occupational, or speech or language therapy, unless waived by the department of health pursuant to rules adopted under division (A) of

section 3712.03 of the Revised Code;

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

(4) Services of a home health aide;

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

(6) Physician's services;

(7) Short-term inpatient care, including both palliative and respite care and procedures;

(8) Counseling for hospice patients and hospice patients' families;

(9) Services of volunteers under the direction of the provider of the hospice care program;

(10) Bereavement services for hospice patients' families.

"Hospice care program" does not include a pediatric respite care program.

(B) "Hospice patient" means a patient, other than a pediatric respite care patient, who has been diagnosed as terminally ill, has an anticipated life expectancy of six months or less, and has voluntarily requested and is receiving care from a person or public agency licensed under this chapter to provide a hospice care program.

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

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

(E) "Palliative care" means treatment for a patient with a serious or life-threatening illness directed at controlling pain, relieving other symptoms, and enhancing the quality of life of the patient and the patient's family rather than treatment for the purpose of cure. Nothing in this section shall be interpreted to mean that palliative care can be provided only as a component of a hospice care program or pediatric respite care program.

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

(G) "Attending physician" means the physician identified by the hospice

patient or the pediatric respite care patient, hospice patient's family, or pediatric respite care patient's family as having primary responsibility for the hospice patient's medical care of the hospice patient or pediatric respite care patient.

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

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

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

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

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

(3) Physician's services;

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

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

(6) Counseling for pediatric respite care patients and pediatric respite care patients' families;

(7) Bereavement services for respite care patients' families.

"Pediatric respite care program" does not include a hospice care program.

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

(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.

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

(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.

(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.

Sec. 3712.03. (A) In accordance with Chapter 119. of the Revised Code, the director of health shall adopt, and may amend and rescind, rules:

(1) Providing for the licensing of persons or public agencies providing hospice care programs within this state by the department of health and for the suspension and revocation of licenses;

(2) Establishing a license fee and license renewal fee for hospice care programs, neither of which shall, except as provided in division (B) of this section, exceed six hundred dollars. The fees shall cover the three-year period during which an existing license is valid as provided in division (B) of section 3712.04 of the Revised Code.

(3) Establishing an inspection fee for hospice care programs not to exceed, except as provided in division (B) of this section, one thousand seven hundred fifty dollars;

(4) Establishing requirements for hospice care program facilities and services;

(5) Providing for a waiver of the requirement for the provision of physical, occupational, or speech or language therapy contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the geographic area served by the provider of a hospice care program;

(6) Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it;

(7) Establishing interpretive guidelines for each rule adopted under this section.

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

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;



(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and

(3) Implement and enforce provisions of this chapter and rules adopted under it as such provisions apply to hospice care programs.

Sec. 3712.031. (A) In accordance with Chapter 119. of the Revised Code, the director of health shall adopt, and may amend and rescind, rules:

(1) Providing for the licensing of persons or public agencies providing pediatric respite care programs within this state by the department of health and for the suspension and revocation of licenses;

(2) Establishing a license fee and license renewal fee for pediatric respite care programs, neither of which shall, except as provided in division (B) of this section, exceed six hundred dollars. The fees shall cover the three-year period during which an existing license is valid as provided in division (B) of section 3712.041 of the Revised Code.

(3) Establishing an inspection fee not to exceed, except as provided in division (B) of this section, one thousand seven hundred fifty dollars;

(4) Establishing requirements for pediatric respite care program facilities and services;

(5) Providing for the granting of licenses to provide pediatric respite care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it;

(6) Establishing interpretive guidelines for each rule adopted under this section.

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

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for pediatric respite care programs in accordance with this chapter and rules adopted under it;

(2) Make such inspections as are necessary to determine whether pediatric respite care program facilities and services meet the requirements of this chapter and rules adopted under it; and

(3) Implement and enforce provisions of this chapter and rules adopted under it as such provisions apply to pediatric respite care programs.

Sec. 3712.041. (A) Every person or public agency that proposes to provide a pediatric respite care program shall apply to the department of

health for a license. Application shall be made on forms prescribed and provided by the department, shall include such information as the department requires, and shall be accompanied by the license fee established by rules adopted by the director of health under division (A) of section 3712.031 of the Revised Code.

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

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

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

Sec. 3712.051. (A) As used in this division, "person" does not include a member of an interdisciplinary team, as defined in section 3712.01 of the Revised Code, or any individual who is employed by a person or public agency licensed under section 3712.041 of the Revised Code.

Except as provided in division (B) of this section, no person or public agency, other than a person or public agency licensed pursuant to section 3712.041 of the Revised Code, shall hold itself out as providing a pediatric respite care program, or provide a pediatric respite care program, or use the term "pediatric respite care program" or any term containing "pediatric respite care" to describe or refer to a health program, facility, or agency.

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

(1) A hospital;

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

(3) A home health agency, if it provides services under contract with a person or public agency providing a pediatric respite care program licensed under section 3712.041 of the Revised Code;

(4) A regional, state, or national nonprofit organization whose members are providers of pediatric respite care programs, individuals interested in pediatric respite care programs, or both, as long as the organization does not provide or represent that it provides pediatric respite care programs;

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

(6) A residential facility licensed under section 5123.19 of the Revised

Code:

(7) A respite care home certified under section 5126.05 of the Revised Code;

(8) A person providing respite care under a family support services program established under section 5126.11 of the Revised Code;

(9) A person or government entity providing respite care under a medicaid waiver component that the department of developmental disabilities administers pursuant to section 5111.871 of the Revised Code.

(C) The department of health shall petition the court of common pleas of any county in which a person or public agency, without a license granted under section 3712.041 of the Revised Code, is holding itself out as providing a pediatric respite care program, is providing a pediatric respite care program, or is representing a health program, facility, or agency as a pediatric respite care program, for an order enjoining that person or public agency from conducting those activities without a license. The court has jurisdiction to grant injunctive relief upon a showing that the respondent named in the petition is conducting those activities without a license.

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

Sec. 3712.061. (A) Any person or public agency licensed under section 3712.041 of the Revised Code to provide a pediatric respite care program shall do all of the following:

(1) Provide a planned and continuous pediatric respite care program, the medical components of which shall be under the direction of a physician;

(2) Ensure that care is available twenty-four hours a day and seven days a week;

(3) Establish an interdisciplinary plan of care for each pediatric respite care patient and the patient's family that:

(a) Is coordinated by one designated individual who shall ensure that all components of the plan of care are addressed and implemented;

(b) Addresses maintenance of patient-family participation in decision making; and

(c) Is reviewed by the patient's attending physician and by the patient's interdisciplinary team immediately prior to or on admission to each session of respite care.

(4) Have an interdisciplinary team or teams that provide or supervise the provision of pediatric respite care program services and establish the policies governing the provision of the services;

(5) Maintain central clinical records on all pediatric respite care patients under its care.

(B) A provider of a pediatric respite care program may arrange for another person or public agency to furnish a component or components of the pediatric respite care program pursuant to a written contract. When a provider of a pediatric respite care program arranges for a home health agency to furnish a component or components of the pediatric respite care program to its patient, the care shall be provided by a home health agency pursuant to a written contract under which:

(1) The provider of a pediatric respite care program furnishes to the contractor a copy of the pediatric respite care patient's interdisciplinary plan of care that is established under division (A)(3) of this section and specifies the care that is to be furnished by the contractor;

(2) The regimen described in the established plan of care is continued while the pediatric respite care patient receives care from the contractor, subject to the patient's needs, and with approval of the coordinator of the interdisciplinary team designated pursuant to division (A)(3)(a) of this section;

(3) All care, treatment, and services furnished by the contractor are entered into the pediatric respite care patient's medical record;

(4) The designated coordinator of the interdisciplinary team ensures conformance with the established plan of care; and

(5) A copy of the contractor's medical record and discharge summary is retained as part of the pediatric respite care patient's medical record.

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

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

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

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

(B)(1) Except as provided in division (I) of this section, the chief administrator of a hospice care program or pediatric respite care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of each applicant. If an applicant for whom a criminal records check request is required under this

division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

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

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

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

(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 shall employ a person in a position that involves providing direct care to an older adult or pediatric respite 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 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, provided that the program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a hospice care program or pediatric respite care program may employ conditionally an applicant who has been referred to the hospice care program or pediatric respite care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults or pediatric respite care patients and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A hospice care program or pediatric respite care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the program shall terminate the individual's employment unless the program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the program about the individual's criminal record.

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

(2) A hospice care program or pediatric respite care program may

charge an applicant a fee not exceeding the amount the program pays under division (D)(1) of this section. A program may collect a fee only if both of the following apply:

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

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the program the fee it pays under division (D)(1) of this section.

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

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

(2) The chief administrator of the program requesting the criminal records check or the administrator's representative;

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

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

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

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

(G) The chief administrator of a hospice care program or pediatric respite care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult or pediatric respite care patient, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) 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 individual who a hospice care program or pediatric respite care program employs in a position that involves providing direct care to older adults or pediatric respite care patients, all of the following shall apply:

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

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

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

(I)(1) The chief administrator of a hospice care program or pediatric respite care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults or pediatric respite care patients and both of the following apply:

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

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

(2) The chief administrator of a hospice care program or pediatric respite care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as



described in this division, if the applicant has been referred to the program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults or pediatric respite care patients and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the hospice care program or pediatric respite care program. If a hospice care program or pediatric respite care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the hospice care program or pediatric respite care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3712.99. Any person who violates division (A) of section 3712.05 or division (A) of section 3712.051 of the Revised Code is guilty of a misdemeanor of the second degree on a first offense; on each subsequent offense the person is guilty of a misdemeanor of the first degree.

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 a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means 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 3702.521 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 as defined in section 5119.22 of the Revised Code;

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

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

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

(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;

(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;

(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;

(ix) 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;

~~(ix)~~(x) 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 require 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 director of health 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 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)~~(viii)~~(ix) 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. 3793.11. (A) No alcohol and drug addiction program shall employ methadone treatment or prescribe, dispense, or administer methadone unless the program is licensed under this section. No alcohol and drug addiction program licensed under this section shall maintain methadone treatment in a manner inconsistent with this section and the rules adopted under it.

(B) An alcohol and drug addiction program may apply to the department of alcohol and drug addiction services for a license to maintain methadone treatment. The department shall review all applications received.

(C) The department may issue a license to maintain methadone treatment to an alcohol and drug addiction program only if all of the following apply:

(1) The program is operated by a private, nonprofit organization or by a government entity;

(2) For at least two years immediately preceding the date of application, the program has been fully certified under section 3793.06 of the Revised Code;

(3) The program has not been denied a license to maintain methadone treatment or had its license withdrawn or revoked within the five-year period immediately preceding the date of application;

(4) It affirmatively appears to the department that the program is adequately staffed and equipped to maintain methadone treatment;

(5) It affirmatively appears to the department that the program will ~~conduct~~ maintain methadone treatment in strict compliance with section 3719.61 of the Revised Code, all other laws relating to drug abuse, and the rules adopted by the department;

(6) Except as provided in division (D) of this section, there is no public or private school, licensed child day-care center, or other child-serving agency within a radius of five hundred feet of the location where the program is to maintain methadone treatment.

(D) The department may waive the requirement of division (C)(6) of this section if it receives, from each public or private school, licensed child day-care center, or other child-serving agency that is within the applicable radius of the location where the program is to maintain methadone treatment, a letter of support for the location. The department shall determine whether a letter of support is satisfactory for purposes of waiving

the requirement.

~~(D)~~(E) A license to maintain methadone treatment shall expire one year from the date of issuance. Licenses may be renewed.

~~(E)~~(F) The department shall establish procedures and adopt rules for licensing, inspection, and supervision of alcohol and drug addiction programs that maintain methadone treatment. The rules shall establish standards for the control, storage, furnishing, use, and dispensing of methadone, prescribe minimum standards for the operation of the methadone treatment component of the program, and comply with federal laws and regulations.

All rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code. All actions taken by the department regarding the licensing of programs to maintain methadone treatment shall be conducted in accordance with Chapter 119. of the Revised Code, except as provided in division ~~(K)~~(L) of this section.

~~(F)~~(G) The department of alcohol and drug addiction services shall inspect all alcohol and drug addiction programs licensed to maintain methadone treatment. Inspections shall be conducted at least annually and may be conducted more frequently. No person or government entity shall interfere with a state or local government official acting on behalf of the department while conducting an inspection.

~~(G)~~(H) An alcohol and drug addiction program shall not administer or dispense methadone in a tablet, powder, or intravenous form. Methadone shall be administered or dispensed only in a liquid form intended for ingestion. A program shall not administer or dispense methadone to an individual for pain or other medical reasons.

~~(H)~~(I) As used in this division, "program sponsor" means a person who assumes responsibility for the operation and employees of the methadone treatment component of an alcohol and drug addiction program.

~~(I)~~ An alcohol and drug addiction program shall not employ an individual who receives methadone treatment from that program. A program shall not permit an individual to act as a program sponsor, medical director, or director of the program if the individual is receiving methadone treatment from any alcohol and drug addiction program.

~~(I)~~(J) The department may issue orders to assure compliance with section 3719.61 of the Revised Code, all other laws relating to drug abuse, and the rules adopted under this section. Subject to section 3793.13 of the Revised Code, the department may hold hearings, require the production of relevant matter, compel testimony, issue subpoenas, and make adjudications. Upon failure of a person without lawful excuse to obey a

subpoena or to produce relevant matter, the department may apply to a court of common pleas for an order compelling compliance.

~~(J)~~(K) The department may refuse to issue, or may withdraw or revoke, a license to maintain methadone treatment. A license may be refused if an alcohol and drug addiction program does not meet the requirements of division (C) of this section. A license may be withdrawn at any time the department determines that the program no longer meets the requirements for receiving the license. A license may be revoked in accordance with division ~~(K)~~(L) of this section.

~~(K)~~ In the case of a license issued prior to the effective date of this amendment, the department shall not consider the requirement of division (C)(6) of this section in determining whether to renew, withdraw, or revoke the license.

(L) If the department of alcohol and drug addiction services finds reasonable cause to believe that an alcohol and drug addiction program licensed under this section is in violation of any provision of section 3719.61 of the Revised Code, or of any other state or federal law or rule relating to drug abuse, the department may issue an order immediately revoking the license, subject to division ~~(L)~~(M) of this section. The department shall set a date not more than fifteen days later than the date of the order of revocation for a hearing on the continuation or cancellation of the revocation. For good cause, the department may continue the hearing on application of any interested party. In conducting hearings, the department has all the authority and power set forth in division ~~(H)~~(J) of this section. Following the hearing, the department shall either confirm or cancel the revocation. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code, except that the program shall not be permitted to maintain methadone treatment pending the hearing or pending any appeal from an adjudication made as a result of the hearing. Notwithstanding any provision of Chapter 119. of the Revised Code to the contrary, a court shall not stay or suspend any order of revocation issued by the director under this division pending judicial appeal.

~~(L)~~(M) The department shall not revoke a license to maintain methadone treatment unless all clients receiving methadone treatment from the alcohol and drug addiction program are provided adequate substitute treatment. For purposes of this division, the department may transfer the clients to other programs licensed to maintain methadone treatment or replace any or all of the administrators and staff of the program with representatives of the department who shall continue on a provisional basis the methadone treatment component of the program.

~~(M)~~(N) Each time the department receives an application from an alcohol and drug addiction program for a license to maintain methadone treatment, issues or refuses to issue a license, or withdraws or revokes a license, the department shall notify the board of alcohol, drug addiction, and mental health services of each alcohol, drug addiction, and mental health service district in which the program is operated.

~~(N)~~(O) Whenever it appears to the department from files, upon complaint, or otherwise, that an alcohol and drug addiction program has engaged in any practice declared to be illegal or prohibited by section 3719.61 of the Revised Code, or any other state or federal laws or regulations relating to drug abuse, or when the department believes it to be in the best interest of the public and necessary for the protection of the citizens of the state, the department may request criminal proceedings by laying before the prosecuting attorney of the proper county any evidence of criminality which may come to its knowledge.

~~(O)~~(P) The department shall maintain a current list of alcohol and drug addiction programs licensed by the department under ~~division (C)~~ of this section and shall provide a copy of the current list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list of licensed alcohol and drug addiction programs shall identify each licensed program by its name, its address, and the county in which it is located.

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

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

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

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

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

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

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

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



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

- (1) A hospital;
- (2) A hospice care program or pediatric respite care program as defined in section 3712.01 of the Revised Code;
- (3) A nursing home;
- (4) A home health agency;
- (5) An intermediate care facility for the mentally retarded.

(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.

(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.

Sec. 3963.01. As used in this chapter:

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity.

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

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

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

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

- (1) Payment for some, but not all of the procedure codes originally billed by a participating provider;
- (2) Payment for a different procedure code than the procedure code originally billed by a participating provider;
- (3) A reduced payment as a result of services provided to an enrollee that are claimed under more than one procedure code on the same service

date.

(F) "Electronic claims transport" means to accept and digitize claims or to accept claims already digitized, to place those claims into a format that complies with the electronic transaction standards issued by the United States department of health and human services pursuant to the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as those electronic standards are applicable to the parties and as those electronic standards are updated from time to time, and to electronically transmit those claims to the appropriate contracting entity, payer, or third-party administrator.

(G) "Enrollee" means any person eligible for health care benefits under a health benefit plan, including an eligible recipient of medicaid under Chapter 5111. of the Revised Code, and includes all of the following terms:

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

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

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

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

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

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

(J) "Material amendment" means an amendment to a health care contract that decreases the participating provider's payment or compensation, changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses, or adds a new product. A material amendment does not include any of the following:

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

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

(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability of which is

clearly identified in the contract;

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

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

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

(K) "Participating provider" means a provider that has a health care contract with a contracting entity and is entitled to reimbursement for health care services rendered to an enrollee under the health care contract.

(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.

(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.

(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.

(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:

(1) A health maintenance organization or other product provided by a health insuring corporation;

(2) A preferred provider organization;

(3) Medicare;

(4) Medicaid;

(5) Workers' compensation.

(P) "Provider" means a physician, podiatrist, dentist, chiropractor, optometrist, psychologist, physician assistant, advanced practice registered nurse, occupational therapist, massage therapist, physical therapist, professional counselor, professional clinical counselor, hearing aid dealer, orthotist, prosthetist, home health agency, hospice care program, pediatric respite care program, or hospital, or a provider organization or

physician-hospital organization that is acting exclusively as an administrator on behalf of a provider to facilitate the provider's participation in health care contracts. "Provider" does not mean a pharmacist, pharmacy, nursing home, or a provider organization or physician-hospital organization that leases the provider organization's or physician-hospital organization's network to a third party or contracts directly with employers or health and welfare funds.

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

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

Sec. 4503.44. (A) As used in this section and in section 4511.69 of the Revised Code:

(1) "Person with a disability that limits or impairs the ability to walk" means any person who, as determined by a health care provider, meets any of the following criteria:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;

(c) Is restricted by a lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty millimeters of mercury on room air at rest;

(d) Uses portable oxygen;

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association;

(f) Is severely limited in the ability to walk due to an arthritic, neurological, or orthopedic condition;

(g) Is blind.

(2) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as part of its business or program, transports persons with disabilities that limit or impair the ability to walk on a regular basis in a motor vehicle that has not been altered for the purpose of providing it with special equipment for use by handicapped persons. This definition does not apply to division (J) of

this section.

(3) "Health care provider" means a physician, physician assistant, advanced practice registered nurse, or chiropractor as defined in this section.

(4) "Physician" means a person licensed to practice medicine or surgery or osteopathic medicine and surgery under Chapter 4731. of the Revised Code.

(5) "Chiropractor" means a person licensed to practice chiropractic under Chapter 4734. of the Revised Code.

(6) "Advanced practice registered nurse" means ~~any~~ a certified nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, or certified nurse-midwife who holds a certificate of authority issued by the board of nursing under Chapter 4723. of the Revised Code.

(7) "Physician assistant" means a person who holds a certificate to practice as a physician assistant issued under Chapter 4730. of the Revised Code.

(B) Any organization or person with a disability that limits or impairs the ability to walk may apply to the registrar of motor vehicles for a removable windshield placard or, if the person owns or leases a motor vehicle, the person may apply for the registration of any motor vehicle the person owns or leases. In addition to one or more sets of license plates or one placard, a person with a disability that limits or impairs the ability to walk is entitled to one additional placard, but only if the person applies separately for the additional placard, states the reasons why the additional placard is needed, and the registrar, in the registrar's discretion, determines that good and justifiable cause exists to approve the request for the additional placard. When a motor vehicle has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk, but is owned or leased by someone other than such a person, the owner or lessee may apply to the registrar or a deputy registrar for registration under this section. The application for registration of a motor vehicle owned or leased by a person with a disability that limits or impairs the ability to walk shall be accompanied by a signed statement from the applicant's health care provider certifying that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for more than six consecutive months. The application for a removable windshield placard made by a person with a disability that limits or impairs the ability to walk shall be accompanied by a prescription from the applicant's health care provider prescribing such a placard for the applicant, provided that the applicant meets at least one of the criteria contained in division (A)(1) of this section.

The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the applicant's ability to walk. The application for a removable windshield placard made by an organization shall be accompanied by such documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk by the organization as the registrar may require by rule and shall be completed in accordance with procedures that the registrar may require by rule. The application for registration of a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk but is owned by someone other than such a person shall be accompanied by such documentary evidence of vehicle alterations as the registrar may require by rule.

(C) When an organization, a person with a disability that limits or impairs the ability to walk, or a person who does not have a disability that limits or impairs the ability to walk but owns a motor vehicle that has been altered for the purpose of providing it with special equipment for a person with a disability that limits or impairs the ability to walk first submits an application for registration of a motor vehicle under this section and every fifth year thereafter, the organization or person shall submit a signed statement from the applicant's health care provider, a completed application, and any required documentary evidence of vehicle alterations as provided in division (B) of this section, and also a power of attorney from the owner of the motor vehicle if the applicant leases the vehicle. Upon submission of these items, the registrar or deputy registrar shall issue to the applicant appropriate vehicle registration and a set of license plates and validation stickers, or validation stickers alone when required by section 4503.191 of the Revised Code. In addition to the letters and numbers ordinarily inscribed thereon, the license plates shall be imprinted with the international symbol of access. The license plates and validation stickers shall be issued upon payment of the regular license fee as prescribed under section 4503.04 of the Revised Code and any motor vehicle tax levied under Chapter 4504. of the Revised Code, and the payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

(D)(1) Upon receipt of a completed and signed application for a removable windshield placard, a prescription as described in division (B) of this section, documentary evidence of regular transport of persons with disabilities that limit or impair the ability to walk, if required, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or deputy registrar shall

issue to the applicant a removable windshield placard, which shall bear the date of expiration on both sides of the placard and shall be valid until expired, revoked, or surrendered. Every removable windshield placard expires as described in division (D)(2) of this section, but in no case shall a removable windshield placard be valid for a period of less than sixty days. Removable windshield placards shall be renewable upon application as provided in division (B) of this section, and a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code shall be charged for the renewal of a removable windshield placard. The registrar shall provide the application form and shall determine the information to be included thereon. The registrar also shall determine the form and size of the removable windshield placard, the material of which it is to be made, and any other information to be included thereon, and shall adopt rules relating to the issuance, expiration, revocation, surrender, and proper display of such placards. Any placard issued after October 14, 1999, shall be manufactured in a manner that allows the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(2) At the time a removable windshield placard is issued to a person with a disability that limits or impairs the ability to walk, the registrar or deputy registrar shall enter into the records of the bureau of motor vehicles the last date on which the person will have that disability, as indicated on the accompanying prescription. Not less than thirty days prior to that date and all removable windshield placard renewal dates, the bureau shall send a renewal notice to that person at the person's last known address as shown in the records of the bureau, informing the person that the person's removable windshield placard will expire on the indicated date not to exceed five years from the date of issuance, and that the person is required to renew the placard by submitting to the registrar or a deputy registrar another prescription, as described in division (B) of this section, and by complying with the renewal provisions prescribed in division (D)(1) of this section. If such a prescription is not received by the registrar or a deputy registrar by that date, the placard issued to that person expires and no longer is valid, and this fact shall be recorded in the records of the bureau.

(3) At least once every year, on a date determined by the registrar, the bureau shall examine the records of the office of vital statistics, located within the department of health, that pertain to deceased persons, and also the bureau's records of all persons who have been issued removable windshield placards and temporary removable windshield placards. If the records of the office of vital statistics indicate that a person to whom a

removable windshield placard or temporary removable windshield placard has been issued is deceased, the bureau shall cancel that placard, and note the cancellation in its records.

The office of vital statistics shall make available to the bureau all information necessary to enable the bureau to comply with division (D)(3) of this section.

(4) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or special license plates if the parking card or special license plates issued to the person or organization under prior law have not expired or been surrendered or revoked.

(E)(1)(a) Any person with a disability that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. The application for a temporary removable windshield placard shall be accompanied by a prescription from the applicant's health care provider prescribing such a placard for the applicant, provided that the applicant meets at least one of the criteria contained in division (A)(1) of this section and that the disability is expected to continue for six consecutive months or less. The health care provider shall state on the prescription the length of time the health care provider expects the applicant to have the disability that limits or impairs the applicant's ability to walk, which cannot exceed six months from the date of the prescription. Upon receipt of an application for a temporary removable windshield placard, presentation of the prescription from the applicant's health care provider, and payment of a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code, the registrar or deputy registrar shall issue to the applicant a temporary removable windshield placard.

(b) Any active-duty member of the armed forces of the United States, including the reserve components of the armed forces and the national guard, who has an illness or injury that limits or impairs the ability to walk may apply to the registrar or a deputy registrar for a temporary removable windshield placard. With the application, the person shall present evidence of the person's active-duty status and the illness or injury. Evidence of the illness or injury may include a current department of defense convalescent leave statement, any department of defense document indicating that the person currently has an ill or injured casualty status or has limited duties, or a prescription from any health care provider prescribing the placard for the applicant. Upon receipt of the application and the necessary evidence, the registrar or deputy registrar shall issue the applicant the temporary



removable windshield placard without the payment of any service fee.

(2) The temporary removable windshield placard shall be of the same size and form as the removable windshield placard, shall be printed in white on a red-colored background, and shall bear the word "temporary" in letters of such size as the registrar shall prescribe. A temporary removable windshield placard also shall bear the date of expiration on the front and back of the placard, and shall be valid until expired, surrendered, or revoked, but in no case shall such a placard be valid for a period of less than sixty days. The registrar shall provide the application form and shall determine the information to be included on it, provided that the registrar shall not require a health care provider's prescription or certification for a person applying under division (E)(1)(b) of this section. The registrar also shall determine the material of which the temporary removable windshield placard is to be made and any other information to be included on the placard and shall adopt rules relating to the issuance, expiration, surrender, revocation, and proper display of those placards. Any temporary removable windshield placard issued after October 14, 1999, shall be manufactured in a manner that allows for the expiration date of the placard to be indicated on it through the punching, drilling, boring, or creation by any other means of holes in the placard.

(F) If an applicant for a removable windshield placard is a veteran of the armed forces of the United States whose disability, as defined in division (A)(1) of this section, is service-connected, the registrar or deputy registrar, upon receipt of the application, presentation of a signed statement from the applicant's health care provider certifying the applicant's disability, and presentation of such documentary evidence from the department of veterans affairs that the disability of the applicant meets at least one of the criteria identified in division (A)(1) of this section and is service-connected as the registrar may require by rule, but without the payment of any service fee, shall issue the applicant a removable windshield placard that is valid until expired, surrendered, or revoked.

(G) Upon a conviction of a violation of division (I), (J), or (K) of this section, the court shall report the conviction, and send the placard or parking card, if available, to the registrar, who thereupon shall revoke the privilege of using the placard or parking card and send notice in writing to the placardholder or cardholder at that holder's last known address as shown in the records of the bureau, and the placardholder or cardholder shall return the placard or card if not previously surrendered to the court, to the registrar within ten days following mailing of the notice.

Whenever a person to whom a removable windshield placard or parking

card has been issued moves to another state, the person shall surrender the placard or card to the registrar; and whenever an organization to which a placard or card has been issued changes its place of operation to another state, the organization shall surrender the placard or card to the registrar.

(H) Subject to division (F) of section 4511.69 of the Revised Code, the operator of a motor vehicle displaying a removable windshield placard, temporary removable windshield placard, parking card, or the special license plates authorized by this section is entitled to park the motor vehicle in any special parking location reserved for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces.

(I) No person or organization that is not eligible under division (B) or (E) of this section shall willfully and falsely represent that the person or organization is so eligible.

No person or organization shall display license plates issued under this section unless the license plates have been issued for the vehicle on which they are displayed and are valid.

(J) No person or organization to which a removable windshield placard or temporary removable windshield placard is issued shall do either of the following:

(1) Display or permit the display of the placard on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for persons with disabilities that limit or impair the ability to walk;

(2) Refuse to return or surrender the placard, when required.

(K)(1) No person or organization to which a parking card is issued shall do either of the following:

(a) Display or permit the display of the parking card on any motor vehicle when having reasonable cause to believe the motor vehicle is being used in connection with an activity that does not include providing transportation for a handicapped person;

(b) Refuse to return or surrender the parking card, when required.

(2) As used in division (K) of this section:

(a) "Handicapped person" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or so severely handicapped as to be unable to move about without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary, or other handicapping condition.

(b) "Organization" means any private organization or corporation, or any governmental board, agency, department, division, or office, that, as

part of its business or program, transports handicapped persons on a regular basis in a motor vehicle that has not been altered for the purposes of providing it with special equipment for use by handicapped persons.

(L) If a removable windshield placard, temporary removable windshield placard, or parking card is lost, destroyed, or mutilated, the placardholder or cardholder may obtain a duplicate by doing both of the following:

(1) Furnishing suitable proof of the loss, destruction, or mutilation to the registrar;

(2) Paying a service fee equal to the amount specified in division (D) or (G) of section 4503.10 of the Revised Code.

Any placardholder or cardholder who loses a placard or card and, after obtaining a duplicate, finds the original, immediately shall surrender the original placard or card to the registrar.

(M) The registrar shall pay all fees received under this section for the issuance of removable windshield placards or temporary removable windshield placards or duplicate removable windshield placards or cards into the state treasury to the credit of the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

(N) In addition to the fees collected under this section, the registrar or deputy registrar shall ask each person applying for a removable windshield placard or temporary removable windshield placard or duplicate removable windshield placard or license plate issued under this section, whether the person wishes to make a two-dollar voluntary contribution to support rehabilitation employment services. The registrar shall transmit the contributions received under this division to the treasurer of state for deposit into the rehabilitation employment fund, which is hereby created in the state treasury. A deputy registrar shall transmit the contributions received under this division to the registrar in the time and manner prescribed by the registrar. The contributions in the fund shall be used by the rehabilitation services commission to purchase services related to vocational evaluation, work adjustment, personal adjustment, job placement, job coaching, and community-based assessment from accredited community rehabilitation program facilities.

(O) For purposes of enforcing this section, every peace officer is deemed to be an agent of the registrar. Any peace officer or any authorized employee of the bureau of motor vehicles who, in the performance of duties authorized by law, becomes aware of a person whose placard or parking card has been revoked pursuant to this section, may confiscate that placard or parking card and return it to the registrar. The registrar shall prescribe any forms used by law enforcement agencies in administering this section.

No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency employing a peace officer, and no employee of the bureau is liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section. As used in this division, "peace officer" has the same meaning as in division (B) of section 2935.01 of the Revised Code.

(P) All applications for registration of motor vehicles, removable windshield placards, and temporary removable windshield placards issued under this section, all renewal notices for such items, and all other publications issued by the bureau that relate to this section shall set forth the criminal penalties that may be imposed upon a person who violates any provision relating to special license plates issued under this section, the parking of vehicles displaying such license plates, and the issuance, procurement, use, and display of removable windshield placards and temporary removable windshield placards issued under this section.

(Q) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

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

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

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

(a) The notification or advertisement is transmitted by or on behalf of the seller of goods or services and by or through any printed, audio, video, cinematic, telephonic, or electronic means.

(b) In the case of a notification or advertisement other than by telephone, either of the following conditions is met:

(i) The notification or advertisement is followed by a telephone call from a telephone solicitor or salesperson.

(ii) The notification or advertisement invites a response by telephone, and, during the course of that response, a telephone solicitor or salesperson attempts to make or makes a sale of goods or services. As used in division (A)(2)(b)(ii) of this section, "invites a response by telephone" excludes the mere listing or inclusion of a telephone number in a notification or advertisement.

(3) "Gift, award, or prize" means anything of value that is offered or purportedly offered, or given or purportedly given by chance, at no cost to the receiver and with no obligation to purchase goods or services. As used in this division, "chance" includes a situation in which a person is guaranteed

to receive an item and, at the time of the offer or purported offer, the telephone solicitor does not identify the specific item that the person will receive.

(4) "Goods or services" means any real property or any tangible or intangible personal property, or services of any kind provided or offered to a person. "Goods or services" includes, but is not limited to, advertising; labor performed for the benefit of a person; personal property intended to be attached to or installed in any real property, regardless of whether it is so attached or installed; timeshare estates or licenses; and extended service contracts.

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

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

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

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

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

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

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

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

(8) "Telephone solicitor" means a person that engages in telephone solicitation directly or through one or more salespersons either from a location in this state, or from a location outside this state to persons in this state. "Telephone solicitor" includes, but is not limited to, any such person that is an owner, operator, officer, or director of, partner in, or other individual engaged in the management activities of, a business.

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

(1) A person engaging in a telephone solicitation that is a one-time or

infrequent transaction not done in the course of a pattern of repeated transactions of a like nature;

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

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

(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. 78l, and is registered or is exempt

from registration under 15 U.S.C.A. 78l(g)(2)(A), (B), (C), (E), (F), (G), or (H);

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

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

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

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

(8) A person soliciting the sale of any book, record, audio tape, compact disc, or video, if the person allows the purchaser to review the merchandise for at least seven days and provides a full refund within thirty days to a purchaser who returns the merchandise or if the person solicits the sale on behalf of a membership club operating in compliance with regulations adopted by the federal trade commission in 16 C.F.R. 425;

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

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

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

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

(12) A person soliciting a business-to-business sale under which any of the following conditions are met:

(a) The telephone solicitor has been operating continuously for at least three years under the same business name under which it solicits purchasers, and at least fifty-one per cent of its gross dollar volume of sales consists of repeat sales to existing customers to whom it has made sales under the same business name.

(b) The purchaser business intends to resell the goods purchased.

(c) The purchaser business intends to use the goods or services purchased in a recycling, reuse, manufacturing, or remanufacturing process.

(d) The telephone solicitor is a publisher of a periodical or of magazines distributed as controlled circulation publications as defined in division (CC) of section 5739.01 of the Revised Code and is soliciting sales of advertising, subscriptions, reprints, lists, information databases, conference participation or sponsorships, trade shows or media products related to the periodical or magazine, or other publishing services provided by the controlled circulation publication.

(13) A person that, not less often than once each year, publishes and delivers to potential purchasers a catalog that complies with both of the following:

(a) It includes all of the following:

(i) The business address of the seller;

(ii) A written description or illustration of each good or service offered for sale;

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

(b) One of the following applies:

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

(ii) The catalog includes at least ten pages of written material or an



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

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

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

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

(17) A person that solicits sales through a television program or advertisement that is presented in the same market area no fewer than twenty days per month or offers for sale no fewer than ten distinct items of goods or services; and offers to the purchaser an unconditional right to return any good or service purchased within a period of at least seven days and to receive a full refund within thirty days after the purchaser returns the good or cancels the service;

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

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

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

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

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

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

at the affiliate's business premises;

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

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

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

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

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

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

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

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

(c) The person makes telephone solicitations on behalf of only exempt persons, the person and each exempt person on whose behalf telephone solicitations are made have entered into a written contract that specifies the manner in which the telephone solicitations are to be conducted and that at a minimum requires compliance with the telemarketing sales rule adopted by the federal trade commission in 16 C.F.R. part 310, and the person conducts the telephone solicitations in the manner specified in the written contract.

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

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

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

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

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

(21)(a) Either of the following:

(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.

(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.

(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.

(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.

(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:

(a) The solicitation and sale are conducted in compliance with 16 C.F.R. part 453, as adopted by the federal trade commission, and with sections 1107.33 and 1345.21 to 1345.28 of the Revised Code;

(b) The person provides to the purchaser of any preneed funeral contract a notice that clearly and conspicuously sets forth the cancellation rights specified in division (G) of section 1107.33 of the Revised Code, and retains a copy of the notice signed by the purchaser.

(24) A person, or affiliate thereof, licensed to sell or issue Ohio instruments designated as travelers checks pursuant to sections 1315.01 to 1315.18 of the Revised Code.

(25) A person that solicits sales from its previous purchasers and meets all of the following requirements:

(a) The solicitation is made under the same business name that was previously used to sell goods or services to the purchaser;

(b) The person has, for a period of not less than three years, operated a business under the same business name as that used in connection with telephone solicitation;

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

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

(e) Neither the person nor any of its principals has been convicted of, pleaded guilty to, or has entered a plea of no contest for a felony or a theft offense as defined in sections 2901.02 and 2913.01 of the Revised Code or similar law of another state or of the United States;

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

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

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

amended;

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

(c) The institution is providing passport services under the direction of the Ohio department of aging under section 173.40 of the Revised Code;

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

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

Sec. 4723.01. 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 authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice;

(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, chiropractor, 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 authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, ~~except that administration of intravenous therapy shall be performed only in accordance with section 4723.17 or 4723.171 of the Revised Code. Medications may be administered by a~~ on the condition that the licensed practical nurse upon proof of completion of a course in medication administration approved by the board of nursing, is authorized under section 4723.17 of the Revised Code to administer medications;

(4) Administration to an adult of intravenous therapy authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, on the condition that the licensed practical nurse is authorized under section ~~4723.17~~ 4723.18 or ~~4723.171~~ 4723.181 of the Revised Code to perform intravenous therapy and performs intravenous therapy only in accordance with those sections;

(5) Delegation of nursing tasks as directed by a registered nurse;

(6) Teaching nursing tasks to licensed practical nurses and individuals to whom the licensed practical nurse is authorized to delegate nursing tasks as directed by a registered nurse.

(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 authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, ~~except as used in divisions (C) and (D) of section 4723.482 of the Revised Code.~~

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

(1) In the case of a clinical nurse specialist, except as provided in division (L)(3) of this section, or a certified nurse practitioner, that one or more podiatrists acting within the scope of practice of podiatry in accordance with section 4731.51 of the Revised Code and with whom the nurse has entered into a standard care arrangement or one or more physicians with whom the nurse has entered into a standard care arrangement are 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 one or more physicians with whom the certified nurse-midwife has entered into a standard care arrangement are 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 who practices the nursing specialty of mental health or psychiatric mental health without being authorized to prescribe drugs and therapeutic devices, that one or more physicians are continuously available to communicate with the nurse either in person or by radio, telephone, or other form of telecommunication.

(M) "Supervision," as it pertains to a certified registered nurse anesthetist, means that the 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.

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

(O) "Advanced practice registered nurse" means a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.

(P) "Dialysis care" means the care and procedures that a dialysis technician or dialysis technician intern is authorized to provide and perform, as specified in section 4723.72 of the Revised Code.

(Q) "Dialysis technician" means an individual who holds a current, valid certificate ~~or temporary certificate issued under this chapter that authorizes the individual~~ to practice as a dialysis technician ~~in accordance with~~ issued under section ~~4723.72~~ 4723.75 of the Revised Code.

(R) "Dialysis technician intern" means an individual who holds a current, valid certificate to practice as a dialysis technician intern issued under section 4723.75 of the Revised Code.

(S) "Certified community health worker" means an individual who holds a current, valid certificate as a community health worker ~~issued by the board of nursing~~ under section 4723.85 of the Revised Code.

(T) "Medication aide" means an individual who holds a current, valid certificate issued under this chapter that authorizes the individual to administer medication in accordance with section 4723.67 of the Revised Code.

Sec. 4723.03. (A) No person shall engage in the practice of nursing as a registered nurse, represent the person as being a registered nurse, or use the title "registered nurse," the initials "R.N.," or any other title implying that the person is a registered nurse, for a fee, salary, or other consideration, or as a volunteer, without holding a current, valid license as a registered nurse under this chapter.

(B) No person shall engage in the practice of nursing as a licensed practical nurse, represent the person as being a licensed practical nurse, or use the title "licensed practical nurse," the initials "L.P.N.," or any other title implying that the person is a licensed practical nurse, for a fee, salary, or other consideration, or as a volunteer, without holding a current, valid license as a practical nurse under this chapter.

(C) No person shall use the titles or initials "graduate nurse," "G.N.,"



"professional nurse," "P.N.," "graduate practical nurse," "G.P.N.," "practical nurse," "P.N.," "trained nurse," "T.N.," or any other statement, title, or initials that would imply or represent to the public that the person is authorized to practice nursing in this state, except as follows:

(1) A person licensed under this chapter to practice nursing as a registered nurse may use that title and the initials "R.N.";

(2) A person licensed under this chapter to practice nursing as a licensed practical nurse may use that title and the initials "L.P.N.";

(3) A person authorized under this chapter to practice nursing as a certified registered nurse anesthetist may use that title, the initials "C.R.N.A." or "N.A.," and any other title or initials approved by the board of nursing;

(4) A person authorized under this chapter to practice nursing as a clinical nurse specialist may use that title, the initials "C.N.S.," and any other title or initials approved by the board;

(5) A person authorized under this chapter to practice nursing as a certified nurse-midwife may use that title, the initials "C.N.M.," and any other title or initials approved by the board;

(6) A person authorized under this chapter to practice nursing as a certified nurse practitioner may use that title, the initials "C.N.P.," and any other title or initials approved by the board;

(7) A person authorized under this chapter to practice as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may use the title "advanced practice registered nurse" or the initials "A.P.R.N."

(D) No person shall employ a person not licensed as a registered nurse under this chapter to engage in the practice of nursing as a registered nurse. No person shall employ a person not licensed as a practical nurse under this chapter to engage in the practice of nursing as a licensed practical nurse.

(E) No person shall sell or fraudulently obtain or furnish any nursing diploma, license, certificate, renewal, or record, or aid or abet such acts.

Sec. 4723.06. (A) The board of nursing shall:

(1) Administer and enforce the provisions of this chapter, including the taking of disciplinary action for violations of section 4723.28 of the Revised Code, any other provisions of this chapter, or rules adopted under this chapter;

(2) Develop criteria that an applicant must meet to be eligible to sit for the examination for licensure to practice as a registered nurse or as a licensed practical nurse;

(3) Issue and renew nursing licenses, dialysis technician certificates, and

community health worker certificates, as provided in this chapter;

(4) Define the minimum ~~curricula~~ and standards for educational programs of the schools of ~~professional~~ registered nursing and schools of practical nursing in this state;

(5) Survey, inspect, and grant full approval to prelicensure nursing education programs in this state that meet the standards established by rules adopted under section 4723.07 of the Revised Code. Prelicensure nursing education programs include, but are not limited to, diploma, associate degree, baccalaureate degree, ~~diploma~~ master's degree, and doctor of nursing programs leading to initial licensure to practice nursing as a registered nurse and practical nurse programs leading to initial licensure to practice nursing as a licensed practical nurse.

(6) Grant conditional approval, by a vote of a quorum of the board, to a new prelicensure nursing education program or a program that is being reestablished after having ceased to operate, if the program meets and maintains the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. If the board does not grant conditional approval, it shall hold an adjudication under Chapter 119. of the Revised Code to consider conditional approval of the program. If the board grants conditional approval, at ~~its~~ the first meeting ~~after the first class has completed the program~~ following completion of the survey process required by division (A)(5) of this section, the board shall determine whether to grant full approval to the program. If the board does not grant full approval or if it appears that the program has failed to meet and maintain standards established by rules adopted under section 4723.07 of the Revised Code, the board shall hold an adjudication under Chapter 119. of the Revised Code to consider the program. Based on results of the adjudication, the board may continue or withdraw conditional approval, or grant full approval.

(7) Place on provisional approval, for a period of time specified by the board, a program that has ceased to meet and maintain the minimum standards of the board established by rules adopted under section 4723.07 of the Revised Code. ~~At~~ Prior to or at the end of the period, the board shall reconsider whether the program meets the standards and shall grant full approval if it does. If it does not, the board may withdraw approval, pursuant to an adjudication under Chapter 119. of the Revised Code.

(8) Approve continuing ~~nursing~~ education programs and courses under standards established in rules adopted under ~~section~~ sections 4723.07, 4723.69, 4723.79, and 4723.88 of the Revised Code;

(9) ~~Approve peer support programs, under rules adopted under section 4723.07 of the Revised Code, for nurses, for dialysis technicians, and for~~

~~certified community health workers;~~

~~(10)~~ Establish a program for monitoring chemical dependency in accordance with section 4723.35 of the Revised Code;

~~(11)~~(10) Establish the practice intervention and improvement program in accordance with section 4723.282 of the Revised Code;

~~(12)~~(11) Issue and renew certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

~~(13)~~(12) Approve under section 4723.46 of the Revised Code national certifying organizations for examination and certification of certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

~~(14)~~(13) Issue and renew certificates to prescribe in accordance with sections 4723.48 and 4723.486 of the Revised Code;

~~(15)~~(14) Grant approval to the planned classroom and clinical study required by section 4723.482 of the Revised Code to be eligible for a certificate to prescribe;

~~(16)~~(15) Make an annual edition of the formulary established in rules adopted under section 4723.50 of the Revised Code available to the public either in printed form or by electronic means and, as soon as possible after any revision of the formulary becomes effective, make the revision available to the public in printed form or by electronic means;

~~(17)~~(16) Provide guidance and make recommendations to the general assembly, the governor, state agencies, and the federal government with respect to the regulation of the practice of nursing and the enforcement of this chapter;

~~(18)~~(17) Make an annual report to the governor, which shall be open for public inspection;

~~(19)~~(18) Maintain and have open for public inspection the following records:

(a) A record of all its meetings and proceedings;

(b) A file record of all applicants for, and holders of nursing, licenses, registrations, and certificates granted under this chapter; dialysis technician certificates granted under this chapter; and community health worker certificates granted issued by the board under this chapter. The file shall be maintained in the form prescribed by rule of the board or in accordance with rules adopted under this chapter. The record shall be maintained in a format determined by the board.

(c) A list of ~~prelicensure nursing~~ education and training programs approved by the board;

~~(d) A list of approved peer support programs for nurses, dialysis technicians, and certified community health workers.~~

(19) Deny approval to a person who submits or causes to be submitted false, misleading, or deceptive statements, information, or documentation to the board in the process of applying for approval of a new education or training program. If the board proposes to deny approval of a new education or training program, it shall do so pursuant to an adjudication conducted under Chapter 119. of the Revised Code.

(B) The board may fulfill the requirement of division (A)(8) of this section by authorizing persons who meet the standards established in rules adopted under section 4723.07 of the Revised Code to approve continuing ~~nursing~~ education programs and courses. Persons so authorized shall approve continuing ~~nursing~~ education programs and courses in accordance with standards established in rules adopted under section 4723.07 of the Revised Code.

Persons seeking authorization to approve continuing ~~nursing~~ education programs and courses shall apply to the board and pay the appropriate fee established under section 4723.08 of the Revised Code. Authorizations to approve continuing ~~nursing~~ education programs and courses shall expire, and may be renewed according to the schedule established in rules adopted under section 4723.07 of the Revised Code.

In addition to approving continuing ~~nursing~~ education programs under division (A)(8) of this section, the board may sponsor continuing education activities that are directly related to the statutes and rules ~~pertaining to the practice of nursing in this state~~ the board enforces.

Sec. 4723.063. (A) As used in this section:

(1) "Health care facility" means:

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

(b) 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;

(c) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(d) A freestanding dialysis center;

(e) A freestanding inpatient rehabilitation facility;

(f) An ambulatory surgical facility;

(g) A freestanding cardiac catheterization facility;

(h) A freestanding birthing center;

(i) A freestanding or mobile diagnostic imaging center;

(j) A freestanding radiation therapy center.

(2) "Nurse education program" means a prelicensure nurse education program approved by the board of nursing under section 4723.06 of the Revised Code or a postlicensure nurse education program approved by the board of regents under section 3333.04 of the Revised Code.

(B) The state board of nursing shall establish and administer the nurse education grant program. Under the program, the board shall award grants to nurse education programs that have partnerships with other education programs, community health agencies, ~~or~~ health care facilities, or patient centered medical homes. Grant recipients shall use the money to fund partnerships to increase the nurse education program's enrollment capacity. Methods of increasing a program's enrollment capacity may include hiring faculty and preceptors, purchasing educational equipment and materials, and other actions acceptable to the board. Grant money shall not be used to construct or renovate buildings. Partnerships may be developed between one or more nurse education programs and one or more health care facilities.

In awarding grants, the board shall give preference to partnerships between nurse education programs and hospitals, nursing homes, and county homes or county nursing homes, but may also award grants to fund partnerships between nurse education programs and other health care facilities and between nurse education programs and patient centered medical homes.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the following:

(1) Eligibility requirements for receipt of a grant;

(2) Grant application forms and procedures;

(3) The amounts in which grants may be made and the total amount that may be awarded to a nurse education program that has a partnership with other education programs, a community health agency, ~~or~~ a health care facility, or a patient centered medical home;

(4) A method whereby the board may evaluate the effectiveness of a partnership between joint recipients in increasing the nurse education program's enrollment capacity;

(5) The percentage of the money in the fund that must remain in the fund at all times to maintain a fiscally responsible fund balance;

(6) The percentage of available grants to be awarded to licensed practical nurse education programs, registered nurse education programs, and graduate programs;

(7) Any other matters incidental to the operation of the program.

(D) ~~From January 1, 2004, until~~ Until December 31, ~~2013~~ 2023, the ten

dollars of each biennial nursing license renewal fee collected under section 4723.08 of the Revised Code shall be dedicated to the nurse education grant program fund, which is hereby created in the state treasury. The board shall use money in the fund for grants awarded under division (A) of this section and for expenses of administering the grant program. The amount used for administrative expenses in any year shall not exceed ten per cent of the amount transferred to the fund in that year.

(E) Each quarter, for the purposes of transferring funds to the nurse education grant program, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding quarter and the amount equal to that number times ten dollars.

(F) Notwithstanding the requirements of section 4743.05 of the Revised Code, from January 1, 2004, until December 31, ~~2013~~ 2023, at the end of each quarter, the director of budget and management shall transfer from the occupational licensing and regulatory fund to the nurse education grant program fund the amount certified under division (E) of this section.

Sec. 4723.07. In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt and may amend and rescind rules that establish all of the following:

(A) Provisions for the board's government and control of its actions and business affairs;

(B) Minimum ~~curricula and~~ standards for nursing education programs that prepare graduates to be licensed under this chapter and procedures for granting, renewing, and withdrawing approval of those programs;

(C) Criteria that applicants for licensure must meet to be eligible to take examinations for licensure;

(D) Standards and procedures for renewal of the licenses and certificates issued by the board;

(E) Standards for approval of continuing nursing education programs and courses for registered nurses, licensed practical nurses, certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners. The standards may provide for approval of continuing nursing education programs and courses that have been approved by other state boards of nursing or by national accreditation systems for nursing, including, but not limited to, the American nurses' credentialing center and the national association for practical nurse education and service.

(F) Standards that persons must meet to be authorized by the board to approve continuing ~~nursing~~ education programs and courses and a schedule

by which that authorization expires and may be renewed;

~~(G)~~ Requirements, including continuing education requirements, for ~~restoring~~ reactivating inactive ~~nursing~~ licenses, ~~dialysis technician~~ certificates, and ~~community health worker~~ or certificates, and for ~~restoring~~ reinstating licenses, ~~dialysis technician~~ certificates, and ~~community health worker~~ or certificates that have lapsed ~~through failure to renew~~;

~~(H)~~ Conditions that may be imposed for reinstatement of a ~~nursing~~ license, ~~dialysis technician~~ certificate, or ~~community health worker~~ or certificate following action taken under section 3123.47, 4723.28, 4723.281, 4723.652, or 4723.86 of the Revised Code resulting in a license or certificate suspension;

~~(I)~~ ~~Standards for approval of peer support programs for persons who hold a nursing license, dialysis technician certificate, or community health worker certificate;~~

~~(J)~~ Requirements for board approval of courses in medication administration by licensed practical nurses;

~~(K)~~(J) Criteria for evaluating the qualifications of an applicant for a license to practice nursing as a registered nurse ~~or, a license to practice nursing as a licensed practical nurse, or a certificate of authority issued under division~~ ~~(E)~~(B) of section 4723.41 of the Revised Code, ~~a dialysis technician certificate, or a community health worker certificate for the purpose of issuing the license or certificate~~ by the board's endorsement of the applicant's authority to practice issued by the licensing agency of another state;

~~(L)~~(K) ~~Universal blood and body fluid standard~~ precautions that shall be used by each ~~person holding a nursing license~~ licensee or ~~dialysis technician~~ certificate ~~issued under this chapter who performs exposure-prone invasive procedures~~ holder. The rules shall define and establish requirements for universal ~~blood and body fluid standard~~ precautions that include the following:

- (1) Appropriate use of hand washing;
- (2) Disinfection and sterilization of equipment;
- (3) Handling and disposal of needles and other sharp instruments;
- (4) Wearing and disposal of gloves and other protective garments and devices.

~~(M)~~(L) Standards and procedures for approving certificates of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, and for renewal of those certificates;

~~(N)~~(M) Quality assurance standards for certified registered nurse

anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

~~(O)~~(N) Additional criteria for the standard care arrangement required by section 4723.431 of the Revised Code entered into by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and the nurse's collaborating physician or podiatrist;

~~(P)~~(O) Continuing education standards for clinical nurse specialists who ~~are exempt~~ were issued a certificate of authority to practice as a clinical nurse specialist under division (C) of section 4723.41 of the Revised Code from the requirement of having passed a certification examination as that division existed at any time before the effective date of this amendment;

~~(Q)~~(P) For purposes of division (B)(31) of section 4723.28 of the Revised Code, the actions, omissions, or other circumstances that constitute failure to establish and maintain professional boundaries with a patient.

The board may adopt other rules necessary to carry out the provisions of this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4723.08. (A) The board of nursing may impose fees not to exceed the following limits:

(1) For application for licensure by examination to practice nursing as a registered nurse or as a licensed practical nurse, seventy-five dollars;

(2) For application for licensure by endorsement to practice nursing as a registered nurse or as a licensed practical nurse, seventy-five dollars;

(3) For application for a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, one hundred dollars;

(4) For application for a temporary dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(5) For application for a ~~full~~ dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

(6) For application for a certificate to prescribe, fifty dollars;

(7) For ~~providing, pursuant to division (B) of section 4723.271 of the Revised Code, written~~ verification of a nursing license, certificate of authority, ~~or certificate to prescribe~~, dialysis technician certificate, medication aide certificate, or community health worker certificate to another jurisdiction, fifteen dollars;

(8) For ~~providing, pursuant to division (A) of section 4723.271 of the Revised Code, a replacement copy of a nursing license, certificate of authority, certificate to prescribe, dialysis technician certificate, intravenous~~



~~therapy card, or frameable wall~~ certificate suitable for framing as described in that division, twenty-five dollars;

~~(9) For biennial renewal of a nursing license that expires on or after August 31, 2003, but before January 1, 2004, forty-five dollars;~~

~~(10) For biennial renewal of a nursing license that expires on or after January 1, 2004, sixty-five dollars;~~

~~(11) For biennial renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse mid-wife, or certified nurse practitioner that expires on or before August 31, 2005, one hundred dollars;~~

~~(12)~~(10) For biennial renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner ~~that expires on or after September 1, 2005,~~ eighty-five dollars;

~~(13)~~(11) For renewal of a certificate to prescribe, fifty dollars;

~~(14)~~(12) For biennial renewal of a dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;

~~(15)~~(13) For processing a late application for renewal of a nursing license, certificate of authority, or dialysis technician certificate, fifty dollars;

~~(16)~~(14) For application for authorization to approve continuing ~~nursing~~ education programs and courses from an applicant accredited by a national accreditation system for nursing, five hundred dollars;

~~(17)~~(15) For application for authorization to approve continuing ~~nursing~~ education programs and courses from an applicant not accredited by a national accreditation system for nursing, one thousand dollars;

~~(18)~~(16) For each year for which authorization to approve continuing ~~nursing~~ education programs and courses is renewed, one hundred fifty dollars;

~~(19)~~(17) For application for approval to operate a dialysis training program, the amount specified in rules adopted under section 4723.79 of the Revised Code;

~~(20)~~(18) For reinstatement of a lapsed ~~nursing~~ license, ~~certificate of authority,~~ or ~~dialysis technician~~ certificate issued under this chapter, one hundred dollars except as provided in section 5903.10 of the Revised Code;

~~(21)~~(19) For written verification of a ~~nursing~~ license, ~~certificate of authority,~~ or ~~dialysis technician~~ certificate; when the verification is performed for purposes other than providing verification to another jurisdiction, five dollars;

~~(22)~~(20) For processing a check returned to the board by a financial institution as noncollectible, twenty-five dollars;

~~(23)~~ For issuance of an intravenous therapy card for which a fee may be charged under section 4723.17 of the Revised Code, twenty-five dollars;

~~(24)~~ For out-of-state survey visits of nursing education programs operating in Ohio, two thousand dollars;

~~(25)~~(21) The amounts specified in rules adopted under section 4723.88 of the Revised Code pertaining to the issuance of certificates to community health workers, including fees for application for a certificate, ~~verification of a certificate to another jurisdiction, written verification of a certificate when the verification is performed for purposes other than verification to another jurisdiction, providing a replacement copy of a certificate,~~ biennial renewal of a certificate, processing a late application for renewal of a certificate, reinstatement of a lapsed certificate, application for approval of a community health worker training program for community health workers, and biennial renewal of the approval of a training program for community health workers.

(B) Each quarter, for purposes of transferring funds under section 4743.05 of the Revised Code to the nurse education assistance fund created in section 3333.28 of the Revised Code, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding quarter and the amount equal to that number times five dollars.

(C) The board may charge a participant in a board-sponsored continuing education activity an amount not exceeding fifteen dollars for each activity.

(D) The board may contract for services pertaining to the process of providing written verification of a ~~nursing license, certificate of authority, dialysis technician certificate, or community health worker certificate~~ when the verification is performed for purposes other than providing verification to another jurisdiction. The contract may include provisions pertaining to the collection of the fee charged for providing the written verification. As part of these provisions, the board may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.

Sec. 4723.09. (A)(1) An application for licensure by examination to practice as a registered nurse or as a licensed practical nurse shall be submitted to the board of nursing in the form prescribed by rules of the board. The application shall include evidence that the applicant has completed ~~requirements of a nursing education program approved by the board or approved by another jurisdiction's~~ under division (A) of section

4723.06 of the Revised Code or by a board that regulates nurse licensure of another jurisdiction that is a member of the national council of state boards of nursing. The application also shall include any other information required by rules of the board. The application shall be accompanied by the application fee required by section 4723.08 of the Revised Code.

(2) The board shall grant a license to practice nursing as a registered nurse or as a licensed practical nurse if all of the following apply:

(a) For all applicants, the applicant passes the examination accepted by the board under section 4723.10 of the Revised Code.

(b) For an applicant who entered a prelicensure nursing education program on or after June 1, 2003, the results of a criminal records check of the applicant that is completed by the bureau of criminal identification and investigation and includes a check of federal bureau of investigation records and that the bureau submits to the board indicates that the applicant has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country conducted in accordance with section 4723.091 of the Revised Code demonstrate that the applicant is not ineligible for licensure as specified in section 4723.092 of the Revised Code.

(c) For all applicants, the board determines that the applicant has not committed any act that is grounds for disciplinary action under section 3123.47 or 4723.28 of the Revised Code or determines that an applicant who has committed any act that is grounds for disciplinary action under either section has made restitution or has been rehabilitated, or both.

(d) For all applicants, the applicant is not required to register under Chapter 2950. of the Revised Code or a substantially similar law of another state, the United States, or another country.

(3) The board is not required to afford an adjudication to an individual to whom it has refused to grant a license because of that individual's failure to pass the examination.

(B)(1) An application for license by endorsement to practice nursing as a registered nurse or as a licensed practical nurse shall be submitted to the board in the form prescribed by rules of the board ~~and shall be accompanied by the application fee required by section 4723.08 of the Revised Code.~~ The application shall include evidence that the applicant holds a current, valid, and unrestricted license ~~in good standing~~ in another jurisdiction granted after passing an examination approved by the board of that jurisdiction that is equivalent to the examination requirements under this chapter for a

license to practice nursing as a registered nurse or licensed practical nurse ~~and~~. The application shall include any other information required by rules of the board of nursing. The application shall be accompanied by the application fee required by section 4723.08 of the Revised Code.

~~(2) The board shall grant a license by endorsement to practice nursing as a registered nurse or as a licensed practical nurse if the applicant is licensed or certified by another jurisdiction and the board determines, pursuant to rules established under section 4723.07 of the Revised Code, that all of the following apply:~~

~~(1)(a) For all applicants, the educational preparation of the applicant is substantially similar to the minimum curricula and standards for provides evidence satisfactory to the board that the applicant has successfully completed a nursing education programs established by program approved by the board under division (A) of section 4723.07 4723.06 of the Revised Code or by a board of another jurisdiction that is a member of the national council of state boards of nursing.~~

~~(2)(b) For all applicants, the examination, at the time it is successfully completed, is equivalent to the examination requirements in effect at that time for applicants who were licensed by examination in this state.~~

~~(3)(c) For all applicants, the board determines there is sufficient evidence that the applicant completed two contact hours of continuing education directly related to this chapter or the rules adopted under it.~~

~~(d) For all applicants, the results of a criminal records check of the applicant that is completed by the bureau of criminal identification and investigation and includes a check of federal bureau of investigation records and that the bureau submits to the board indicates that the applicant has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country conducted in accordance with section 4723.091 of the Revised Code demonstrate that the applicant is not ineligible for licensure as specified in section 4723.092 of the Revised Code.~~

~~(4)(e) For all applicants, the applicant has not committed any act that is grounds for disciplinary action under section 3123.47; or 4723.28; or 4723.281 of the Revised Code, or the board determines that an applicant who has committed any act that is grounds for disciplinary action under any either of those sections has made restitution or has been rehabilitated, or both.~~

(f) For all applicants, the applicant is not required to register under

Chapter 2950. of the Revised Code, or a substantially similar law of another state, the United States, or another country.

(C) The board may grant a nonrenewable temporary permit to practice nursing as a registered nurse or as a licensed practical nurse to an applicant for license by endorsement if the board is satisfied by the evidence that the applicant holds a current, ~~active~~ valid, and unrestricted license ~~in good standing~~ in another jurisdiction. Subject to earlier automatic termination as described in this paragraph, the temporary permit shall expire at the earlier of one hundred eighty days after issuance or upon the issuance of a license by endorsement. The temporary permit shall terminate automatically if the criminal records check completed by the bureau of criminal identification and investigation as described in ~~this section~~ 4723.091 of the Revised Code regarding the applicant indicates that the applicant ~~previously has been convicted of, pleaded guilty to, or had a judicial finding of guilt for a violation of section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country~~ is ineligible for licensure as specified in section 4723.092 of the Revised Code. An applicant whose temporary permit is automatically terminated is permanently prohibited from obtaining a license to practice nursing in this state as a registered nurse or as a licensed practical nurse.

~~(C) An applicant under this section shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant. The request shall be on the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, accompanied by a standard impression sheet to obtain fingerprints prescribed pursuant to division (C)(2) of that section, and accompanied by the fee prescribed pursuant to division (C)(3) of that section. Upon receipt of the completed form, the completed impression sheet, and the fee, the bureau shall conduct a criminal records check of the applicant. Upon completion of the criminal records check, the bureau shall send the results of the check to the board. An applicant requesting a criminal records check under this division shall ask the superintendent of the bureau of criminal identification and investigation to also request the federal bureau of investigation to provide the superintendent with any information it has with respect to the applicant.~~

~~The results of any criminal records check conducted pursuant to a request made under this section, and any report containing those results, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than the following:~~

~~(1) The results may be made available to any person for use in determining under this section and division (N) of section 4723.28 of the Revised Code whether the individual who is the subject of the check should be granted a license to practice nursing as a registered nurse or as a licensed practical nurse or whether any temporary permit granted to the individual under this section has terminated automatically.~~

~~(2) The results may be made available to the individual who is the subject of the check or that individual's representative.~~

Sec. 4723.091. (A) An individual who applies for licensure under section 4723.09 of the Revised Code; issuance of a certificate under section 4723.651, 4723.75, 4723.76, or 4723.85 of the Revised Code; reactivation of a license, under division (D) of section 4723.24 of the Revised Code, that has been inactive for at least five years; or reinstatement of a license, under division (D) of section 4723.24 of the Revised Code, that has been expired for at least five years shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant. The request shall be made in accordance with section 109.572 of the Revised Code.

(B) An applicant requesting a criminal records check under division (A) of this section shall also ask the superintendent of the bureau of criminal identification and investigation to request that the federal bureau of investigation send to the superintendent any information the federal bureau of investigation has with respect to the applicant.

(C) On receipt of all items required for the commencement of a criminal records check pursuant to division (A) of this section, the bureau of criminal identification and investigation shall conduct a criminal records check of the applicant. On the completion of the criminal records check, the bureau shall send the results to the board of nursing.

(D) The results of a criminal records check conducted pursuant to a request made under division (A) of this section, and any report containing those results, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than the following:

(1) The results may be made available to any person for use in determining under section 4723.09, 4723.651, 4723.75, 4723.76, or 4723.85 of the Revised Code whether the individual who is the subject of the check should be granted a license or certificate under this chapter or whether any temporary permit granted to the individual under either of the following has terminated automatically:

(a) Section 4723.09 of the Revised Code;

(b) Section 4723.76 of the Revised Code as that section existed at any time before the effective date of this section.

(2) The results may be made available to any person for use in determining under division (D) of section 4723.24 of the Revised Code whether the individual who is the subject of the check should have the individual's license or certificate reactivated or reinstated.

(3) The results may be made available to any person for use in determining under section 4723.28 of the Revised Code whether the individual who is the subject of the check should be subject to disciplinary action in accordance with that section.

(4) The results may be made available to the individual who is the subject of the check or that individual's representative.

Sec. 4723.092. An individual is ineligible for licensure under section 4723.09 of the Revised Code or issuance of a certificate under section 4723.651, 4723.75, 4723.76, or 4723.85 of the Revised Code if a criminal records check conducted in accordance with section 4723.091 of the Revised Code indicates that the individual has been convicted of, pleaded guilty to, or had a judicial finding of guilt for either of the following:

(A) Violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code;

(B) Violating a law of another state, the United States, or another country that is substantially similar to a law described in division (A) of this section.

Sec. 4723.17. The board of nursing shall authorize a licensed practical nurse to administer medications if the nurse supplies evidence satisfactory to the board that either of the following is the case:

(A) The nurse successfully completed, within a practical nurse prelicensure education program approved by the board or by another jurisdiction's agency that regulates the practice of nursing, a course in basic pharmacology.

(B) The nurse successfully completed a postlicensure course in basic pharmacology that is acceptable to the board.

Sec. ~~4723.17~~ 4723.18. (A) The board of nursing ~~may~~ shall authorize a licensed practical nurse to administer to an adult intravenous therapy authorized by an individual who is authorized to practice in this state and is acting within the course of the individual's professional practice, if the licensed practical nurse has a current, valid license issued under this chapter that includes authorization to administer medications and one supplies evidence satisfactory to the board that all of the following ~~is~~ are the case:

(1) The nurse holds a current, valid license issued under this chapter to practice nursing as a licensed practical nurse.

(2) The nurse has been authorized under section 4723.18 of the Revised Code to administer medications.

~~(3) The nurse has successfully completed, within a practical nurse prelicensure education program a course of study in the safe performance of intravenous therapy approved by the board or by another jurisdiction's agency that regulates the practice of nursing, a course of study that prepares the nurse to safely perform the intravenous therapy procedures the board may authorize under this section. To meet this requirement, the course of study must include all of the following:~~

~~(a) Both didactic and clinical components;~~

~~(b) Curriculum requirements established in rules the board of nursing shall adopt in accordance with Chapter 119. of the Revised Code;~~

~~(c) Standards that require the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely pursuant to section 4723.19 of the Revised Code or by an agency in another jurisdiction that regulates the practice of nursing and has requirements for intravenous therapy course approval that are substantially similar to the requirements in division (B) of section 4723.19 of the Revised Code, as determined by the board.~~

~~(2)(4) The nurse has successfully completed a minimum of forty hours of training that includes all of the following:~~

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

~~(b) 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;~~

~~(c) Any other training or instruction the board considers appropriate;~~

~~(d) A testing component that requires the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely.~~

~~(B) Except as provided in section 4723.171 4723.181 of the Revised Code and subject to the restrictions in division (D) of this section, a licensed practical nurse may perform intravenous therapy on an adult patient only if authorized by the board 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 ~~4723.171~~ 4723.181 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~~ adult patient 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, 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 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 perform intravenous therapy may do ~~either~~ any of the following:

(i) Initiate an intravenous infusion containing one or more of the following elements: dextrose 5%, normal saline, lactated ringers, sodium chloride .45%, sodium chloride 0.2%, sterile water;

(ii) Hang subsequent containers of the intravenous solutions specified in division (D)(6)(a)(i) 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 perform intravenous therapy may initiate;~~

(iii) Initiate or maintain an intravenous ~~piggyback~~ infusion containing an antibiotic additive;

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

~~(7) Aspirating any intravenous line to maintain patency;~~

~~(8)~~ Changing tubing on any line 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)~~(8) Programming or setting any function of a patient controlled infusion pump.

(E) Notwithstanding ~~division~~ divisions (A) and (D) of this section, at the direction of a 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~~;

~~(5) The intermittent injection of a dose of medication prescribed by a licensed physician for dialysis that is administered via the hemodialysis blood circuit and through the patient's venous access.~~

(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 is authorized by the board to perform intravenous therapy.

~~(G) The board shall issue an intravenous therapy card to the licensed practical nurses authorized pursuant to division (A) of this section to perform intravenous therapy. A fee for issuing the card shall not be charged under section 4723.08 of the Revised Code if the licensed practical nurse receives the card by meeting the requirements of division (A)(1) of this section. The board shall maintain a registry of the names of licensed practical nurses who hold intravenous therapy cards.~~

Sec. ~~4723.171~~ 4723.181. (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 ~~4723.17~~ 4723.18 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.

Sec. 4723.19. (A) A person or government entity seeking approval to provide a course of study in the safe performance of intravenous therapy shall apply to the board of nursing in a manner specified by the board.

(B) The board shall approve the applicant to provide a course of study in the safe performance of intravenous therapy if the content of the course of study to be provided includes all of the following:

(1) Didactic and clinical components;

(2) Curriculum requirements established in rules the board shall adopt in accordance with Chapter 119. of the Revised Code;

(3) Standards that require the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely.

Sec. 4723.24. (A) ~~All~~ Except as otherwise specified in this chapter, all active licenses and certificates issued under this chapter shall be renewed biennially according to a schedule established by the board of nursing. The board shall provide an application for renewal to every holder of an active license or certificate, except when the board is aware that an individual is ineligible for license or certificate renewal for any reason, including pending criminal charges in this state or another jurisdiction, failure to comply with a disciplinary order from the board or the terms of a consent agreement entered into with the board, failure to pay fines or fees owed to the board, or failure to provide on the board's request documentation of having completed the continuing nursing education requirements specified in division (C) of this section.

If the board provides a renewal application by mail, the application shall be addressed to the last known post-office address of the license or certificate holder and mailed before the date specified in the board's schedule. Failure of the license or certificate holder to receive an application for renewal from the board shall not excuse the holder from the requirements contained in this section, except as provided in section 5903.10 of the Revised Code.

The license or certificate holder shall complete the renewal form and return it to the ~~treasurer of state~~ board with the renewal fee required by section 4723.08 of the Revised Code on or before the date specified by the board. The license or certificate holder shall report any conviction, plea, or judicial finding regarding a criminal offense that constitutes grounds for the board to impose sanctions under section 4723.28 of the Revised Code since

the holder last submitted an application to the board.

~~The treasurer shall immediately forward the renewal application to the board.~~ On receipt of the renewal application, the board shall verify ~~that whether~~ the applicant meets the renewal requirements ~~and~~. If the applicant meets the requirements, the board shall renew the license or certificate for the following two-year period.

If a renewal application that meets the renewal requirements is submitted after the date specified in the board's schedule, but before expiration of the license or certificate, the board shall grant a renewal upon payment of the late renewal fee authorized under section 4723.08 of the Revised Code.

(B) Every license or certificate holder shall give written notice to the board of any change of name or address within thirty days of the change. The board shall require the holder to document a change of name in a manner acceptable to the board.

(C)(1) Except in the case of a first renewal after licensure by examination, to be eligible for renewal of an active license to practice nursing as a registered nurse or licensed practical nurse, each individual who holds an active license shall, in each two-year period specified by the board, complete continuing nursing education as follows:

(a) For renewal of a license that was issued for a two-year renewal period, twenty-four hours of continuing nursing education;

(b) For renewal of a license that was issued for less than a two-year renewal period, the number of hours of continuing nursing education specified by the board in rules adopted in accordance with Chapter 119. of the Revised Code;

(c) Of the hours of continuing nursing education completed in any renewal period, at least one hour of the education must be directly related to the statutes and rules pertaining to the practice of nursing in this state.

(2) The board shall adopt rules establishing the procedure for a license holder to certify to the board completion of the required continuing nursing education. The board may conduct a random sample of license holders and require that the license holders included in the sample submit satisfactory documentation of having completed the requirements for continuing nursing education. On the board's request, a license holder included in the sample shall submit the required documentation.

(3) An educational activity may be applied toward meeting the continuing nursing education requirement only if it is obtained through a program or course approved by the board or a person the board has authorized to approve continuing nursing education programs and courses.

(4) The continuing education required of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to ~~obtain or~~ maintain certification by a national certifying organization shall be applied toward the continuing education requirements for renewal of a license to practice nursing as a registered nurse only if it is obtained through a program or course approved by the board or a person the board has authorized to approve continuing nursing education programs and courses.

(D) Except as otherwise provided in section 4723.28 of the Revised Code, ~~a~~ an individual who holds an active license holder to practice nursing as a registered nurse or licensed practical nurse and who does not intend to practice in Ohio may send to the board written notice to that effect on or before the renewal date, and the board shall classify the license as inactive. During the period that the license is classified as inactive, the holder may not engage in the practice of nursing in Ohio and is not required to pay the renewal fee.

The holder of an inactive license or an individual who has failed to renew the individual's license may have the license ~~restored or renewed~~ reactivated or reinstated upon ~~meeting~~ doing the following, as applicable to the holder or individual:

(1) Applying to the board for license reactivation or reinstatement on forms provided by the board;

(2) Meeting the requirements for ~~restoring and renewing~~ reactivating or reinstating licenses established in rules adopted under section 4723.07 of the Revised Code or, if the individual did not renew because of service in the armed forces of the United States, as provided in section 5903.10 of the Revised Code;

(3) If the license has been inactive for at least five years from the date of application for reactivation or has lapsed for at least five years from the date of application for reinstatement, submitting a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records pursuant to section 4723.091 of the Revised Code.

Sec. 4723.271. ~~The~~ (A) Upon request of the holder of a nursing license, certificate of authority, dialysis technician certificate, medication aide certificate, or community health worker certificate issued under this chapter, the presentment of proper identification as prescribed in rules adopted by the board of nursing, and payment of the fee authorized under section 4723.08 of the Revised Code, the board of nursing shall provide to the requestor a replacement copy of a ~~nursing license, certificate of authority, dialysis~~

~~technician will certificate, or community health worker certificate issued under this chapter upon request of the holder accompanied by proper identification as prescribed in rules adopted by the board and payment of the fee authorized under section 4723.08 of the Revised Code suitable for framing.~~

~~(B)~~ Upon request of the holder of a nursing license, certificate of authority, certificate to prescribe, dialysis technician certificate, medication aide certificate, or community health worker certificate issued under this chapter and payment of the fee authorized under section 4723.08 of the Revised Code, the board shall verify to an agency of another jurisdiction or foreign country the fact that the person holds such nursing license, certificate of authority, certificate to prescribe, dialysis technician certificate, medication aide certificate, or community health worker certificate.

Sec. 4723.28. (A) The board of nursing, by a vote of a quorum, may ~~revoke or may refuse to grant a nursing license, certificate of authority, or dialysis technician certificate to a person found by the board to have~~ impose one or more of the following sanctions if it finds that a person committed fraud in passing an examination required to obtain the a license, certificate of authority, or dialysis technician certificate issued by the board or to have committed fraud, misrepresentation, or deception in applying for or securing any nursing license, certificate of authority, or dialysis technician certificate issued by the board; deny, revoke, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation.

~~(B) Subject to division (N) of this section, the~~ The board of nursing, by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke, suspend, or place restrictions on any nursing license, certificate of authority, or dialysis technician certificate issued by the board; reprimand or otherwise discipline a holder of a nursing license, certificate of authority, or dialysis technician certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the following:

(1) Denial, revocation, suspension, or restriction of authority to engage in a licensed profession or practice a health care occupation, including nursing or practice as a dialysis technician, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;

(2) Engaging in the practice of nursing or engaging in practice as a

dialysis technician, having failed to renew a nursing license or dialysis technician certificate issued under this chapter, or while a nursing license or dialysis technician certificate is under suspension;

(3) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;

(4) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, any felony or of any crime involving gross immorality or moral turpitude;

(5) Selling, giving away, or administering drugs or therapeutic devices for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, violating any municipal, state, county, or federal drug law;

(6) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, an act in another jurisdiction that would constitute a felony or a crime of moral turpitude in Ohio;

(7) Conviction of, a plea of guilty to, a judicial finding of guilt of, a judicial finding of guilt resulting from a plea of no contest to, or a judicial finding of eligibility for a pretrial diversion or similar program or for intervention in lieu of conviction for, an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio;

(8) Self-administering or otherwise taking into the body any dangerous drug, as defined in section 4729.01 of the Revised Code, in any way that is not in accordance with a legal, valid prescription issued for that individual, or self-administering or otherwise taking into the body any drug that is a schedule I controlled substance;

(9) Habitual ~~indulgence in the~~ or excessive use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs ~~ability to practice~~ the individual's ability to provide safe nursing care or safe dialysis care;

(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of



~~habitual or excessive the~~ use of drugs, alcohol, or other chemical substances ~~that impair the ability to practice;~~

(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care or safe dialysis care because of a physical or mental disability;

(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;

(13) ~~Obtaining or attempting to obtain~~ Misappropriation or attempted misappropriation of money or anything of value ~~by intentional misrepresentation or material deception~~ in the course of practice;

(14) Adjudication by a probate court of being mentally ill or mentally incompetent. The board may ~~restore~~ reinstate the person's nursing license or dialysis technician certificate upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed by the board on a nursing license or dialysis technician certificate ~~by the board;~~

(18) Failure to use universal ~~blood and body fluid~~ standard precautions established by rules adopted under section 4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;

(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;

(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;

(23) Aiding and abetting a person in that person's practice of nursing without a license or practice as a dialysis technician without a certificate issued under this chapter;

(24) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, except as provided in division (M) of this section, either of the following:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to

pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay.

(25) Failure to comply with the terms and conditions of participation in the chemical dependency monitoring program established under section 4723.35 of the Revised Code;

(26) Failure to comply with the terms and conditions required under the practice intervention and improvement program established under section 4723.282 of the Revised Code;

(27) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:

(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;

(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.

(28) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement;

(29) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code, failure to prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code;

(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;

(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;

(32) Regardless of whether the contact or verbal behavior is consensual, engaging with a patient other than the spouse of the registered nurse, licensed practical nurse, or dialysis technician in any of the following:

(a) Sexual contact, as defined in section 2907.01 of the Revised Code;

(b) Verbal behavior that is sexually demeaning to the patient or may be reasonably interpreted by the patient as sexually demeaning.

(33) Assisting suicide as defined in section 3795.01 of the Revised Code.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by a vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

(D) The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code, the board may appoint a hearing examiner, as provided in section 119.09 of the Revised Code, to conduct any hearing the board is authorized to hold under Chapter 119. of the Revised Code.

In any instance in which the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant, licensee, or ~~license~~ certificate holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by a vote of a quorum, a final order that contains the board's findings. In the final order, the board may order any of the sanctions listed in division (A) or (B) of this section.

(E) If a criminal action is brought against a registered nurse, licensed practical nurse, or dialysis technician for an act or crime described in divisions (B)(3) to (7) of this section and the action is dismissed by the trial court other than on the merits, the board shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the action was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed the act, or if the registered nurse, licensed practical nurse, or dialysis technician fails to participate in the adjudication, the board may take action as though the registered nurse, licensed practical nurse, or dialysis technician had been convicted of the act.

If the board takes action on the basis of a conviction, plea, or a judicial finding as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the registered nurse, licensed practical nurse, or dialysis technician may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the

merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall conduct an adjudication to determine whether the registered nurse, licensed practical nurse, or dialysis technician committed the act on which the original conviction, plea, or judicial finding was based. If the board determines on the basis of the adjudication that the registered nurse, licensed practical nurse, or dialysis technician committed such act, or if the registered nurse, licensed practical nurse, or dialysis technician does not request an adjudication, the board shall reinstate its action; otherwise, the board shall permanently rescind its action.

Notwithstanding the provision of division (C)(2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case shall be deemed not to have occurred, sealing of the following records of a conviction on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction.

The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F) The board may investigate an individual's criminal background in performing its duties under this section. As part of such investigation, the board may order the individual to submit, at the individual's expense, a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records in accordance with the procedure described in section 4723.091 of the Revised Code.

(G) During the course of an investigation conducted under this section, the board may compel any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter to submit to a mental or physical examination, or both, as required by the board and at the expense of the individual, if the board finds reason to believe that the individual under investigation may have a physical or mental impairment that may affect the individual's ability to provide safe nursing care. Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence.

If the board finds that an individual is impaired, the board shall require

the individual to submit to care, counseling, or treatment approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. The individual shall be afforded an opportunity to demonstrate to the board that the individual can begin or resume the individual's occupation in compliance with acceptable and prevailing standards of care under the provisions of the individual's authority to practice.

For purposes of this division, any registered nurse, licensed practical nurse, or dialysis technician or applicant under this chapter shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(H) The board shall investigate evidence that appears to show that any person has violated any provision of this chapter or any rule of the board. Any person may report to the board any information the person may have that appears to show a violation of any provision of this chapter or rule of the board. In the absence of bad faith, any person who reports such information or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of the report or testimony.

(I) All of the following apply under this chapter with respect to the confidentiality of information:

(1) Information received by the board pursuant to a complaint or an investigation is confidential and not subject to discovery in any civil action, except that the board may disclose information to law enforcement officers and government entities investigating for purposes of an investigation of either a licensed health care professional, including a registered nurse, licensed practical nurse, or dialysis technician, or a person who may have engaged in the unauthorized practice of nursing or dialysis care. No law enforcement officer or government entity with knowledge of any information disclosed by the board pursuant to this division shall divulge the information to any other person or government entity except for the purpose of a government investigation, a prosecution, or an adjudication by a court or government entity.

(2) If an investigation requires a review of patient records, the investigation and proceeding shall be conducted in such a manner as to protect patient confidentiality.

(3) All adjudications and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(4) Any board activity that involves continued monitoring of an individual as part of or following any disciplinary action taken under this section shall be conducted in a manner that maintains the individual's confidentiality. Information received or maintained by the board with respect to the board's monitoring activities is ~~confidential and~~ not subject to discovery in any civil action and is confidential, except that the board may disclose information to law enforcement officers and government entities for purposes of an investigation of a licensee or certificate holder.

(J) Any action taken by the board under this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the person may be reinstated to practice.

(K) When the board refuses to grant a license or certificate to an applicant, revokes a license or certificate, or refuses to reinstate a license or certificate, the board may specify that its action is permanent. An individual subject to permanent action taken by the board is forever ineligible to hold a license or certificate of the type that was refused or revoked and the board shall not accept from the individual an application for reinstatement of the license or certificate or for a new license or certificate.

(L) No unilateral surrender of a nursing license, certificate of authority, or dialysis technician certificate issued under this chapter shall be effective unless accepted by majority vote of the board. No application for a nursing license, certificate of authority, or dialysis technician certificate issued under this chapter may be withdrawn without a majority vote of the board. The board's jurisdiction to take disciplinary action under this section is not removed or limited when an individual has a license or certificate classified as inactive or fails to renew a license or certificate.

(M) Sanctions shall not be imposed under division (B)(24) of this section against any licensee who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

~~(N)(1) Any person who enters a prelicensure nursing education program on or after June 1, 2003, and who subsequently applies under division (A) of section 4723.09 of the Revised Code for licensure to practice as a registered~~

~~nurse or as a licensed practical nurse and any person who applies under division (B) of that section for license by endorsement to practice nursing as a registered nurse or as a licensed practical nurse shall submit a request to the bureau of criminal identification and investigation for the bureau to conduct a criminal records check of the applicant and to send the results to the board, in accordance with section 4723.09 of the Revised Code.~~

~~The board shall refuse to grant a license to practice nursing as a registered nurse or as a licensed practical nurse under section 4723.09 of the Revised Code to a person who entered a prelicensure nursing education program on or after June 1, 2003, and applied under division (A) of section 4723.09 of the Revised Code for the license or a person who applied under division (B) of that section for the license, if the criminal records check performed in accordance with division (C) of that section indicates that the person has pleaded guilty to, been convicted of, or has had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country.~~

~~(2) Any person who enters a dialysis training program on or after June 1, 2003, and who subsequently applies for a certificate to practice as a dialysis technician shall submit a request to the bureau of criminal identification and investigation for the bureau to conduct a criminal records check of the applicant and to send the results to the board, in accordance with section 4723.75 of the Revised Code.~~

~~The board shall refuse to issue a certificate to practice as a dialysis technician under section 4723.75 of the Revised Code to a person who entered a dialysis training program on or after June 1, 2003, and whose criminal records check performed in accordance with division (C) of that section indicates that the person has pleaded guilty to, been convicted of, or has had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country.~~

Sec. 4723.32. This chapter does not prohibit any of the following:

(A) The practice of nursing by a student currently enrolled in and actively pursuing completion of a prelicensure nursing education program, if all of the following are the case:

(1) The student is participating in a program located in this state and approved by the board of nursing or participating in this state in a component of a program located in another jurisdiction and approved by a

board that is a member of the national council of state boards of nursing;

(2) The student's practice is under the auspices of the program;

(3) The student acts under the supervision of a registered nurse serving for the program as a faculty member or teaching assistant.

(B) The rendering of medical assistance to a licensed physician, licensed dentist, or licensed podiatrist by a person under the direction, supervision, and control of such licensed physician, dentist, or podiatrist;

(C) The activities of persons employed as nursing aides, attendants, orderlies, or other auxiliary workers in patient homes, nurseries, nursing homes, hospitals, home health agencies, or other similar institutions;

(D) The provision of nursing services to family members or in emergency situations;

(E) The care of the sick when done in connection with the practice of religious tenets of any church and by or for its members;

(F) The practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner by a student currently enrolled in and actively pursuing completion of a program of study leading to initial authorization by the board of nursing to practice nursing in the specialty, if all of the following are the case:

(1) The program qualifies the student to sit for the examination of a national certifying organization ~~listed in division (A)(3) of section 4723.41 of the Revised Code~~ or approved by the board under section 4723.46 of the Revised Code or the program prepares the student to receive a master's degree in accordance with division (A)(2) of section 4723.41 of the Revised Code;

(2) The student's practice is under the auspices of the program;

(3) The student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor.

(G) The activities of an individual who currently holds a license to practice nursing in another jurisdiction, if the individual's license has not been revoked, the individual is not currently under suspension or on probation, the individual does not represent the individual as being licensed under this chapter, and one of the following is the case:

(1) The individual is engaging in the practice of nursing by discharging official duties while employed by or under contract with the United States government or any agency thereof;

(2) The individual is engaging in the practice of nursing as an employee of an individual, agency, or corporation located in the other jurisdiction in a position with employment responsibilities that include transporting patients



into, out of, or through this state, as long as each trip in this state does not exceed seventy-two hours;

(3) The individual is consulting with an individual licensed in this state to practice any health-related profession;

(4) The individual is engaging in activities associated with teaching in this state as a guest lecturer at or for a nursing education program, continuing nursing education program, or in-service presentation;

(5) The individual is conducting evaluations of nursing care that are undertaken on behalf of an accrediting organization, including the national league for nursing accrediting committee, the joint commission on accreditation of healthcare organizations, or any other nationally recognized accrediting organization;

(6) The individual is providing nursing care to an individual who is in this state on a temporary basis, not to exceed six months in any one calendar year, if the nurse is directly employed by or under contract with the individual or a guardian or other person acting on the individual's behalf;

(7) The individual is providing nursing care during any disaster, natural or otherwise, that has been officially declared to be a disaster by a public announcement issued by an appropriate federal, state, county, or municipal official.

(H) The administration of medication by an individual who holds a valid medication aide certificate issued under this chapter, if the medication is administered to a resident of a nursing home or residential care facility authorized by section ~~4723.63~~ or 4723.64 of the Revised Code to use a certified medication aide and the medication is administered in accordance with section 4723.67 of the Revised Code.

Sec. 4723.34. (A) ~~Reports to the board of nursing shall be made as follows:~~

~~(1) Every employer of~~ A person or governmental entity that employs, or contracts directly or through another person or governmental entity for the provision of services by, registered nurses, licensed practical nurses, ~~or~~ dialysis technicians, medication aides, or certified community health workers and that knows or has reason to believe that a current or former employee or person providing services under a contract who holds a license or certificate issued under this chapter engaged in conduct that would be grounds for disciplinary action by the board of nursing under this chapter or rules adopted under it shall report to the board of nursing the name of ~~any~~ such current or former employee ~~who holds a nursing license or dialysis technician certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section~~

~~4723.28 of the Revised Code or person providing services under a contract. The report shall be made on the person's or governmental entity's behalf by an individual licensed by the board who the person or governmental entity has designated to make such reports.~~

~~Every employer of certified community health workers shall report to the board the name of any current or former employee who holds a community health worker certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code.~~

~~Every employer of medication aides shall report to the board the name of any current or former employee who holds a medication aide certificate issued under this chapter who has engaged in conduct that would be grounds for disciplinary action by the board under section 4723.652 of the Revised Code.~~

~~(2) Nursing associations shall report to the board the name of any registered nurse or licensed practical nurse and dialysis technician associations shall report to the board the name of any dialysis technician who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.28 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code.~~

~~Community health worker associations shall report to the board the name of any certified community health worker who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.86 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.07 of the Revised Code.~~

~~Medication aide associations shall report to the board the name of any medication aide who has been investigated and found to constitute a danger to the public health, safety, and welfare because of conduct that would be grounds for disciplinary action by the board under section 4723.652 of the Revised Code, except that an association is not required to report the individual's name if the individual is maintaining satisfactory participation in a peer support program approved by the board under rules adopted under section 4723.69 of the Revised Code.~~

~~(3) If the A~~ prosecutor in a case described in divisions (B)(3) to (5) of section 4723.28 of the Revised Code, or in a case where the trial court issued an order of dismissal upon technical or procedural grounds of a charge of a misdemeanor committed in the course of practice, a felony charge, or a charge of gross immorality or moral turpitude, who knows or has reason to believe that the person charged is licensed under this chapter to practice nursing as a registered nurse or as a licensed practical nurse or holds a certificate issued under this chapter to practice as a dialysis technician, ~~the prosecutor~~ shall notify the board of nursing of the charge. With regard to certified community health workers and medication aides, ~~if~~ the prosecutor in a case involving a charge of a misdemeanor committed in the course of employment, a felony charge, or a charge of gross immorality or moral turpitude, including a case dismissed on technical or procedural grounds, who knows or has reason to believe that the person charged holds a community health worker or medication aide certificate issued under this chapter, ~~the prosecutor~~ shall notify the board of the charge.

Each notification ~~required by this division from a prosecutor~~ shall be made on forms prescribed and provided by the board. The report shall include the name and address of the license or certificate holder, the charge, and the certified court documents recording the action.

(B) If any person or governmental entity fails to provide a report required by this section, the board may seek an order from a court of competent jurisdiction compelling submission of the report.

Sec. 4723.35. (A) As used in this section, "chemical dependency" means either of the following:

(1) The chronic and habitual use of alcoholic beverages to the extent that the user no longer can control the use of alcohol or endangers the user's health, safety, or welfare or that of others;

(2) The use of a controlled substance as defined in section 3719.01 of the Revised Code, a harmful intoxicant as defined in section 2925.01 of the Revised Code, or a dangerous drug as defined in section 4729.01 of the Revised Code, to the extent that the user becomes physically or psychologically dependent on the substance, intoxicant, or drug or endangers the user's health, safety, or welfare or that of others.

(B) The board of nursing may abstain from taking disciplinary action under section 4723.28 or 4723.86 of the Revised Code against an individual with a chemical dependency if it finds that the individual can be treated effectively and there is no impairment of the individual's ability to practice according to acceptable and prevailing standards of safe care. The board shall establish a chemical dependency monitoring program to monitor the

registered nurses, licensed practical nurses, dialysis technicians, and certified community health workers against whom the board has abstained from taking action. The board shall develop the program, select the program's name, and designate a coordinator to administer the program.

(C) Determinations regarding an individual's eligibility for admission to, continued participation in, and successful completion of the monitoring program shall be made by the board's supervising member for disciplinary matters in accordance with rules adopted under division (D) of this section.

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

(1) Eligibility requirements for admission to and continued participation in the monitoring program;

(2) Terms and conditions that must be met to participate in and successfully complete the program;

(3) Procedures for keeping confidential records regarding participants;

(4) Any other requirements or procedures necessary to establish and administer the program.

~~(D)~~(E)(1) As a condition of being admitted to the monitoring program, an individual shall surrender to the program coordinator the license or certificate that the individual holds. While the surrender is in effect, the individual is prohibited from engaging in the practice of nursing, engaging in the provision of dialysis care, or engaging in the provision of services that were being provided as a certified community health worker.

If the ~~program coordinator~~ board's supervising member for disciplinary matters determines that a participant is capable of resuming practice according to acceptable and prevailing standards of safe care, the program coordinator shall return the participant's license or certificate. If the participant violates the terms and conditions of resumed practice, the ~~program~~ coordinator shall require the participant to surrender the license or certificate as a condition of continued participation in the program. The coordinator may require the surrender only on the approval of the board's supervising member for disciplinary matters.

The surrender of a license or certificate on admission to the monitoring program or while participating in the program does not constitute an action by the board under section 4723.28 or 4723.86 of the Revised Code. The participant may rescind the surrender at any time and the board may proceed by taking action under section 4723.28 or 4723.86 of the Revised Code.

(2) If the program coordinator determines that a participant is significantly out of compliance with the terms and conditions for participation, the coordinator shall notify the board's supervising member

for disciplinary matters and the supervising member shall determine whether to temporarily suspend the participant's license or certificate. The ~~program coordinator board~~ shall notify the participant of the suspension by certified mail sent to the participant's last known address and shall refer the matter to the board for formal action under section 4723.28 or 4723.86 of the Revised Code.

~~(E)~~(F) All of the following apply with respect to the receipt, release, and maintenance of records and information by the monitoring program:

(1) The program coordinator shall maintain all program records in the board's office, and for each participant, shall retain the records for a period of ~~five~~ two years following the participant's date of successful completion of the program.

(2) When applying to participate in the monitoring program, the applicant shall sign a waiver permitting the ~~program coordinator board~~ to receive and release information necessary ~~for the coordinator~~ to determine whether the individual is eligible for admission. After being admitted, the participant shall sign a waiver permitting the ~~program coordinator board~~ to receive and release information necessary to determine whether the individual is eligible for continued participation in the program. Information that may be necessary for the ~~program coordinator board's supervising member for disciplinary matters~~ to determine eligibility for admission or continued participation in the monitoring program includes, but is not limited to, information provided to and by employers, probation officers, law enforcement agencies, peer assistance programs, health professionals, and treatment providers. No entity with knowledge that the information has been provided to the monitoring program shall divulge that knowledge to any other person.

(3) Except as provided in division ~~(E)~~(F)(4) of this section, all records pertaining to an individual's application for or participation in the monitoring program, including medical records, treatment records, and mental health records, shall be confidential. The records are not public records for the purposes of section 149.43 of the Revised Code and are not subject to discovery by subpoena or admissible as evidence in any judicial proceeding.

(4) The ~~program coordinator board~~ may disclose information regarding a participant's progress in the program to any person or government entity that the participant authorizes in writing to be given the information. In disclosing information under this division, the ~~coordinator board~~ shall not include any information that is protected under section 3793.13 of the Revised Code or any federal statute or regulation that provides for the

confidentiality of medical, mental health, or substance abuse records.

~~(F)(G)~~ In the absence of fraud or bad faith, the ~~program coordinator, the board of nursing, and the board's employees and representatives as a whole, its individual members, and its employees and representatives~~ are not liable for damages in any civil action as a result of disclosing information in accordance with division ~~(E)(F)~~(4) of this section. In the absence of fraud or bad faith, any person reporting to the program with regard to an individual's chemical dependence, or the progress or lack of progress of that individual with regard to treatment, is not liable for damages in any civil action as a result of the report.

Sec. 4723.41. (A) Each person who desires to practice nursing as a certified nurse-midwife and has not been authorized to practice midwifery prior to December 1, 1967, and each person who desires to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, or certified nurse practitioner shall file with the board of nursing a written application for authorization to practice nursing in the desired specialty, under oath, on a form prescribed by the board.

Except as provided in ~~divisions~~ division (B), ~~(C), and (D)~~ of this section, at the time of making application, the applicant shall meet all of the following requirements:

(1) Be a registered nurse;

(2) Submit documentation satisfactory to the board that the applicant has earned a graduate degree with a major in a nursing specialty or in a related field that qualifies the applicant to sit for the certification examination of a national certifying organization ~~listed in division (A)(3) of this section or~~ approved by the board under section 4723.46 of the Revised Code;

(3) Submit documentation satisfactory to the board of having passed the certification examination of ~~one of the following:~~

~~(a) If the applicant is applying to practice nursing as a certified nurse-midwife, the American college of nurse-midwives or another national certifying organization approved by the board under section 4723.46 of the Revised Code to examine and certify nurse-midwives;~~

~~(b) If the applicant is applying to practice nursing as a certified registered nurse anesthetist, the national council on certification of nurse anesthetists of the American association of nurse anesthetists, the national council on recertification of nurse anesthetists of the American association of nurse anesthetists, or another national certifying organization approved by the board under section 4723.46 of the Revised Code to examine and certify registered nurse anesthetists;~~

~~(c) If the applicant is applying to practice nursing as a clinical nurse specialist, the American nurses credentialing center or another national certifying organization approved by the board under section 4723.46 of the Revised Code to examine and certify clinical nurse specialists;~~

~~(d) If the applicant is applying to practice nursing as a certified nurse practitioner, the American nurses credentialing center, the national certification corporation, the national board of pediatric nurse practitioners and associates, or another a national certifying organization approved by the board under section 4723.46 of the Revised Code to examine and certify, as applicable, nurse-midwives, registered nurse anesthetists, clinical nurse specialists, or nurse practitioners;~~

(4) Submit an affidavit with the application that states all of the following:

(a) That the applicant is the person named in the documents submitted under divisions (A)(2) and (3) of this section and is the lawful possessor thereof;

(b) The applicant's age, residence, the school at which the applicant obtained education in the applicant's nursing specialty, and any other facts that the board requires;

(c) If the applicant is already engaged in the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, the period during which and the place where the applicant is engaged;

(d) If the applicant is already engaged in the practice of nursing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, the names and business addresses of the applicant's current collaborating physicians and podiatrists. ~~If the applicant is not yet engaged in the practice of nursing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, the applicant shall submit the names and business addresses of the applicant's collaborating physicians or podiatrists not later than thirty days after first engaging in the practice. The applicant shall give written notice to the board of any additions or deletions to the affidavit of collaborating physicians or podiatrists not later than thirty days after the change takes effect.~~

~~(B) On or before December 31, 2000, the board shall issue to an applicant a certificate of authority to practice nursing as a certified registered nurse anesthetist, certified nurse-midwife, or certified nurse practitioner if the applicant complies with all requirements of this section, other than the requirement that the applicant has earned a graduate degree with a major in a nursing specialty or in a related field that qualifies the~~

~~applicant to sit for the certification examination of a national certifying organization listed in division (A)(3) of this section or approved by the board under section 4723.46 of the Revised Code.~~

~~(C) On or before December 31, 2000, the board shall issue to an applicant a certificate of authority to practice nursing as a clinical nurse specialist if one of the following applies:~~

~~(1) The applicant holds a graduate degree with a major in a clinical area of nursing from an educational institution accredited by a national or regional accrediting organization and complies with all requirements of this section, other than the requirement of having passed a certification examination.~~

~~(2) The applicant holds a graduate degree in nursing or a related field and is certified as a clinical nurse specialist by the American nurses credentialing center or another national certifying organization approved by the board under section 4723.46 of the Revised Code.~~

~~(D) On or before December 31, 2008, the board shall issue to an applicant a certificate of authority to practice nursing as a certified nurse practitioner if the applicant has successfully completed a nurse practitioner certificate program that receives funding under and is employed by a public agency or a private, nonprofit entity that receives funding under Title X of the "Public Health Service Act," 42 U.S.C. 300 and 300a-1 (1991), and complies with all requirements of this section, other than the requirement that the applicant has earned a graduate degree with a major in a nursing specialty or a related field.~~

~~(E)(B)(1) A certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who is practicing as such in another jurisdiction may apply for a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner in this state if the nurse meets the requirements for a certificate of authority set forth in division (A) of this section or division (B)(2) of this section. ~~The~~~~

(2) If an applicant practicing in another jurisdiction applies for a certificate of authority under division (B)(2) of this section, the application shall be submitted to the board in the form prescribed by rules of the board and be accompanied by the application fee required by section 4723.08 of the Revised Code. The application shall include evidence that the applicant meets the requirements of division (B)(2) of this section, holds a license or certificate to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse



practitioner in good standing in another jurisdiction granted after meeting requirements approved by the entity of that jurisdiction that licenses nurses, and other information required by rules of the board of nursing.

If With respect to the educational requirements and national certification requirements that an applicant under division (B)(2) of this section must meet, both of the following apply:

(a) If the applicant is a certified registered nurse anesthetist, certified nurse-midwife, or certified nurse practitioner who, on or before December 31, 2000, met the requirements of this section to practice as such and has maintained obtained certification in the applicant's nursing specialty with a national certifying organization listed in division (A)(3) of section 4723.41 of the Revised Code as that division existed prior to the effective date of this amendment or that was at that time approved by the board under section 4723.46 of the Revised Code, division (B) of this section shall apply the applicant must have maintained the certification. The applicant is not required to have earned a graduate degree with a major in a nursing specialty or in a related field that qualifies the applicant to sit for the certification examination.

(b) If the applicant is a clinical nurse specialist who, on or before December 31, 2000, met the requirements of this section to practice as such, division (C) of this section shall apply one of the following must apply to the applicant:

(i) On or before December 31, 2000, the applicant obtained a graduate degree with a major in a clinical area of nursing from an educational institution accredited by a national or regional accrediting organization. The applicant is not required to have passed a certification examination.

(ii) On or before December 31, 2000, the applicant obtained a graduate degree in nursing or a related field and was certified as a clinical nurse specialist by the American nurses credentialing center or another national certifying organization that was at that time approved by the board under section 4723.46 of the Revised Code.

Sec. 4723.42. (A) If the applicant for authorization to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner has met all the requirements of section 4723.41 of the Revised Code and has paid the fee required by section 4723.08 of the Revised Code, the board of nursing shall issue its certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, which shall designate the nursing specialty the nurse is authorized to practice. The certificate entitles its holder to practice nursing

in the specialty designated on the certificate.

The board shall issue or deny its certificate not later than sixty days after receiving all of the documents required by section 4723.41 of the Revised Code.

If an applicant is under investigation for a violation of this chapter, the board shall conclude the investigation not later than ninety days after receipt of all required documents, unless this ninety-day period is extended by written consent of the applicant, or unless the board determines that a substantial question of such a violation exists and the board has notified the applicant in writing of the reasons for the continuation of the investigation. If the board determines that the applicant has not violated this chapter, it shall issue a certificate not later than forty-five days after making that determination.

(B) Authorization to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall be renewed biennially according to rules and a schedule adopted by the board. In providing renewal applications to certificate holders, the board shall follow the procedures it follows under section 4723.24 of the Revised Code in providing renewal applications to license holders. Failure of the certificate holder to receive an application for renewal from the board does not excuse the holder from the requirements of section 4723.44 of the Revised Code.

Not later than the date specified by the board, the holder shall complete the renewal form and return it to the board with all of the following:

- (1) The renewal fee required by section 4723.08 of the Revised Code;
- (2) ~~Except as provided in division (C) of this section, documentation~~ Documentation satisfactory to the board that the holder has maintained certification in the nursing specialty with a national certifying organization ~~listed in division (A)(3) of section 4723.41 of the Revised Code or approved by the board under section 4723.46 of the Revised Code;~~
- (3) A list of the names and business addresses of the holder's current collaborating physicians and podiatrists, if the holder is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;
- (4) If the holder's certificate was issued under division (C) of section 4723.41 of the Revised Code, as that division existed at any time before the effective date of this amendment, documentation satisfactory to the board that the holder has completed continuing education for a clinical nurse specialist as required by rule of the board;
- (5) ~~If the holder's certificate was issued under division (D) of section 4723.41 of the Revised Code, documentation satisfactory to the board that~~

~~the holder has continued employment by a public agency or a private, nonprofit entity that receives funding under Title X of the "Public Health Service Act," 42 U.S.C. 300 and 300a-1 (1991).~~

On receipt of the renewal application, fees, and documents, the board shall verify that the applicant holds a current license to practice nursing as a registered nurse in this state, and, if it so verifies, shall renew the certificate. If an applicant submits the completed renewal application after the date specified in the board's schedule, but before the expiration of the certificate, the board shall grant a renewal when the late renewal fee required by section 4723.08 of the Revised Code is paid.

An applicant for reinstatement of an expired certificate shall submit the reinstatement fee, renewal fee, and late renewal fee required by section 4723.08 of the Revised Code. Any holder of a certificate who desires inactive status shall give the board written notice to that effect.

~~(C) The board shall renew a certificate of authority to practice nursing as a clinical nurse specialist issued pursuant to division (C) of section 4723.41 of the Revised Code, if the certificate holder complies with all renewal requirements of this section other than the requirement of having maintained certification in the holder's nursing specialty.~~

Sec. 4723.43. A certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may provide to individuals and groups nursing care that requires knowledge and skill obtained from advanced formal education and clinical experience. In this capacity as an advanced practice registered nurse, a certified nurse-midwife is subject to division (A) of this section, a certified registered nurse anesthetist is subject to division (B) of this section, a certified nurse practitioner is subject to division (C) of this section, and a clinical nurse specialist is subject to division (D) of this section.

(A) A nurse authorized to practice as a certified nurse-midwife, in collaboration with one or more physicians, may provide the management of preventive services and those primary care services necessary to provide health care to women antepartally, intrapartally, postpartally, and gynecologically, consistent with the nurse's education and certification, and in accordance with rules adopted by the board of nursing.

No certified nurse-midwife may perform version, deliver breech or face presentation, use forceps, do any obstetric operation, or treat any other abnormal condition, except in emergencies. Division (A) of this section does not prohibit a certified nurse-midwife from performing episiotomies or normal vaginal deliveries, or repairing vaginal tears. A certified nurse-midwife who holds a certificate to prescribe issued under section

4723.48 of the Revised Code may, in collaboration with one or more physicians, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

(B) A nurse authorized to practice as a certified registered nurse anesthetist, with the supervision and in the immediate presence of a physician, podiatrist, or dentist, may administer anesthesia and perform anesthesia induction, maintenance, and emergence, and may perform with supervision preanesthetic preparation and evaluation, postanesthesia care, and clinical support functions, consistent with the nurse's education and certification, and in accordance with rules adopted by the board. A certified registered nurse anesthetist is not required to obtain a certificate to prescribe in order to provide the anesthesia care described in this division.

The physician, podiatrist, or dentist supervising a certified registered nurse anesthetist must be actively engaged in practice in this state. When a certified registered nurse anesthetist is supervised by a podiatrist, the nurse's scope of practice is limited to the anesthesia procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform. A certified registered nurse anesthetist may not administer general anesthesia under the supervision of a podiatrist in a podiatrist's office. When a certified registered nurse anesthetist is supervised by a dentist, the nurse's scope of practice is limited to the anesthesia procedures that the dentist has the authority under Chapter 4715. of the Revised Code to perform.

(C) A nurse authorized to practice as a certified nurse practitioner, in collaboration with one or more physicians or podiatrists, may provide preventive and primary care services, provide services for acute illnesses, and evaluate and promote patient wellness within the nurse's nursing specialty, consistent with the nurse's education and certification, and in accordance with rules adopted by the board. A certified nurse practitioner who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians or podiatrists, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

When a certified nurse practitioner is collaborating with a podiatrist, the nurse's scope of practice is limited to the procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform.

(D) A nurse authorized to practice as a clinical nurse specialist, in collaboration with one or more physicians or podiatrists, may provide and manage the care of individuals and groups with complex health problems and provide health care services that promote, improve, and manage health care within the nurse's nursing specialty, consistent with the nurse's

education and in accordance with rules adopted by the board. A clinical nurse specialist who holds a certificate to prescribe issued under section 4723.48 of the Revised Code may, in collaboration with one or more physicians or podiatrists, prescribe drugs and therapeutic devices in accordance with section 4723.481 of the Revised Code.

When a clinical nurse specialist is collaborating with a podiatrist, the nurse's scope of practice is limited to the procedures that the podiatrist has the authority under section 4731.51 of the Revised Code to perform.

Sec. 4723.431. (A) Except as provided in division (D)(1) of this section, a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may practice only in accordance with a standard care arrangement entered into with each physician or podiatrist with whom the nurse collaborates. A copy of the standard care arrangement shall be retained on file at each site where the nurse practices. Prior approval of the standard care arrangement by the board of nursing is not required, but the board may periodically review it for compliance with this section.

A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner may enter into a standard care arrangement with one or more collaborating physicians or podiatrists. Each Not later than thirty days after first engaging in the practice of nursing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, the nurse shall submit to the board the name and business address of each collaborating physician or podiatrist. Thereafter, the nurse shall give to the board written notice of any additions or deletions to the nurse's collaborating physicians or podiatrists not later than thirty days after the change takes effect.

Each collaborating physician or podiatrist must be actively engaged in direct clinical practice in this state and practicing in a specialty that is the same as or similar to the nurse's nursing specialty. If a collaborating physician or podiatrist enters into standard care arrangements with more than three nurses who hold certificates to prescribe issued under section 4723.48 of the Revised Code, the physician or podiatrist shall not collaborate at the same time with more than three of the nurses in the prescribing component of their practices.

(B) A standard care arrangement shall be in writing and, except as provided in division (D)(2) of this section, shall contain all of the following:

(1) Criteria for referral of a patient by the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to a collaborating physician or podiatrist;

(2) A process for the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to obtain a consultation with a collaborating

physician or podiatrist;

(3) A plan for coverage in instances of emergency or planned absences of either the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner or a collaborating physician or podiatrist that provides the means whereby a physician or podiatrist is available for emergency care;

(4) The process for resolution of disagreements regarding matters of patient management between the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and a collaborating physician or podiatrist;

(5) A procedure for a regular review of the referrals by the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to other health care professionals and the care outcomes for a random sample of all patients seen by the nurse;

(6) If the clinical nurse specialist or certified nurse practitioner regularly provides services to infants, a policy for care of infants up to age one and recommendations for collaborating physician visits for children from birth to age three;

(7) Any other criteria required by rule of the board adopted pursuant to section 4723.07 or 4723.50 of the Revised Code.

(C) A standard care arrangement entered into pursuant to this section may permit a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to supervise services provided by a home health agency as defined in section 3701.881 of the Revised Code.

(D)(1) A clinical nurse specialist who does not hold a certificate to prescribe and whose nursing specialty is mental health or psychiatric mental health, as determined by the board, is not required to enter into a standard care arrangement, but shall practice in collaboration with one or more physicians.

(2) If a clinical nurse specialist practicing in either of the specialties specified in division (D)(1) of this section holds a certificate to prescribe, the nurse shall enter into a standard care arrangement with one or more physicians. The standard care arrangement must meet the requirements of division (B) of this section, but only to the extent necessary to address the prescribing component of the nurse's practice.

(E) Nothing in this section prohibits a hospital from hiring a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner as an employee and negotiating standard care arrangements on behalf of the employee as necessary to meet the requirements of this section. A standard care arrangement between the hospital's employee and the employee's collaborating physician is subject to approval by the medical staff and

governing body of the hospital prior to implementation of the arrangement at the hospital.

Sec. 4723.44. (A) No person shall do any of the following unless the person holds a current, valid certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner issued by the board of nursing under this chapter:

(1) Engage in the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for a fee, salary, or other consideration, or as a volunteer;

(2) Represent the person as being a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(3) Use any title or initials implying that the person is a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(4) Represent the person as being an advanced practice registered nurse;

(5) Use any title or initials implying that the person is an advanced practice registered nurse.

(B) No person who is not certified by the national council on certification of nurse anesthetists of the American association of nurse anesthetists, the national council on recertification of nurse anesthetists of the American association of nurse anesthetists, or another national certifying organization approved by the board under section 4723.46 of the Revised Code shall use the title "certified registered nurse anesthetist" or the initials "C.R.N.A.," or any other title or initial implying that the person has been certified by the council or organization.

(C) No certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner shall do any of the following:

(1) Engage, for a fee, salary, or other consideration, or as a volunteer, in the practice of a nursing specialty other than the specialty designated on the nurse's current, valid certificate of authority issued by the board under this chapter;

(2) Represent the person as being authorized to practice any nursing specialty other than the specialty designated on the current, valid certificate of authority;

(3) Use the title "certified registered nurse anesthetist" or the initials "N.A." or "C.R.N.A.," the title "clinical nurse specialist" or the initials "C.N.S.," the title "certified nurse-midwife" or the initials "C.N.M.," the title

"certified nurse practitioner" or the initials "C.N.P.," the title "advanced practice registered nurse" or the initials "A.P.R.N.," or any other title or initials implying that the nurse is authorized to practice any nursing specialty other than the specialty designated on the nurse's current, valid certificate of authority;

(4) Enter into a standard care arrangement with a physician or podiatrist whose practice is not the same as or similar to the nurse's nursing specialty;

(5) Prescribe drugs or therapeutic devices unless the nurse holds a current, valid certificate to prescribe issued under section 4723.48 of the Revised Code;

(6) Prescribe drugs or therapeutic devices under a certificate to prescribe in a manner that does not comply with section 4723.481 of the Revised Code;

(7) Prescribe any drug or device to perform or induce an abortion, or otherwise ~~perform~~ perform or induce an abortion.

(D) No person shall knowingly employ a person to engage in the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner unless the person so employed holds a current, valid certificate of authority to engage in that nursing specialty issued by the board under this chapter.

(E) A certificate certified by the executive director of the board, under the official seal of the board, to the effect that it appears from the records that no certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner has been issued to any person specified therein, or that a certificate, if issued, has been revoked or suspended, shall be received as prima-facie evidence of the record in any court or before any officer of the state.

Sec. 4723.48. (A) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner seeking authority to prescribe drugs and therapeutic devices shall file with the board of nursing a written application for a certificate to prescribe. The board of nursing shall issue a certificate to prescribe to each applicant who meets the requirements specified in section 4723.482 or 4723.485 of the Revised Code.

Except as provided in division (B) of this section, the initial certificate to prescribe that the board issues to an applicant shall be issued as an externship certificate. Under an externship certificate, the nurse may obtain experience in prescribing drugs and therapeutic devices by participating in an externship that evaluates the nurse's competence, knowledge, and skill in pharmacokinetic principles and their clinical application to the specialty



being practiced. During the externship, the nurse may prescribe drugs and therapeutic devices only when one or more physicians are providing supervision in accordance with rules adopted under section 4723.50 of the Revised Code.

After completing the externship, the holder of an externship certificate may apply for a new certificate to prescribe. On receipt of the new certificate, the nurse may prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

~~(B) In the case of an applicant who on May 17, 2000, was approved to prescribe drugs and therapeutic devices under section 4723.56 of the Revised Code, as that section existed on that date, the initial certificate to prescribe that the board issues to the applicant under this section shall not be an externship certificate. The applicant shall be issued a certificate to prescribe that permits the recipient to prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.~~

~~In~~ the case of an applicant who meets the requirements of division (C) of section 4723.482 of the Revised Code, the initial certificate to prescribe that the board issues to the applicant under this section shall not be an externship certificate. The applicant shall be issued a certificate to prescribe that permits the recipient to prescribe drugs and therapeutic devices in collaboration with one or more physicians or podiatrists.

Sec. 4723.482. (A) Except as provided in divisions (C) and (D) of this section, an applicant shall include with the application submitted under section 4723.48 of the Revised Code all of the following:

(1) ~~Subject to section 4723.483 of the Revised Code, evidence~~ Evidence of holding a current, valid certificate of authority ~~issued under this chapter~~ to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner that was issued by meeting the requirements of division (A) of section 4723.41 of the Revised Code;

(2) Evidence of successfully completing the course of study in advanced pharmacology and related topics in accordance with the requirements specified in division (B) of this section;

(3) The fee required by section 4723.08 of the Revised Code for a certificate to prescribe;

(4) Any additional information the board of nursing requires pursuant to rules adopted under section 4723.50 of the Revised Code.

(B) With respect to the course of study in advanced pharmacology and related topics that must be successfully completed to obtain a certificate to prescribe, all of the following requirements apply:

(1) The course of study shall be completed not longer than three years

before the application for the certificate to prescribe is filed.

(2) The course of study shall consist of planned classroom and clinical instruction for a total of not less than forty-five contact hours.

(3) The course of study shall meet the requirements to be approved by the board in accordance with standards established in rules adopted under section 4723.50 of the Revised Code.

(4) The content of the course of study shall be specific to the applicant's nursing specialty.

(5) The instruction provided in the course of study shall include all of the following:

(a) A minimum of thirty-six contact hours of instruction in advanced pharmacology that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in the prevention of illness and maintenance of health;

(b) Instruction in the fiscal and ethical implications of prescribing drugs and therapeutic devices;

(c) Instruction in the state and federal laws that apply to the authority to prescribe;

(d) Instruction that is specific to schedule II controlled substances, including instruction in all of the following:

(i) Indications for the use of schedule II controlled substances in drug therapies;

(ii) The most recent guidelines for pain management therapies, as established by state and national organizations such as the Ohio pain initiative and the American pain society;

(iii) Fiscal and ethical implications of prescribing schedule II controlled substances;

(iv) State and federal laws that apply to the authority to prescribe schedule II controlled substances;

(v) Prevention of abuse and diversion of schedule II controlled substances, including identification of the risk of abuse and diversion, recognition of abuse and diversion, types of assistance available for prevention of abuse and diversion, and methods of establishing safeguards against abuse and diversion.

(e) Any additional instruction required pursuant to rules adopted under section 4723.50 of the Revised Code.

(C) An applicant who practiced or is practicing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner in another jurisdiction or as an employee of the United States government, and is not seeking authority to prescribe drugs and therapeutic devices by meeting the

requirements of division (A) or (D) of this section, shall include with the application submitted under section 4723.48 of the Revised Code all of the following:

(1) ~~Subject to section 4723.483 of the Revised Code, evidence~~ Evidence of holding a current, valid certificate of authority issued under this chapter to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(2) The fee required by section 4723.08 of the Revised Code for a certificate to prescribe;

(3) Either of the following:

(a) Evidence of having held, for a continuous period of at least one year during the three years immediately preceding the date of application, valid authority issued by another jurisdiction to prescribe therapeutic devices and drugs, including at least some controlled substances;

(b) Evidence of having been employed by the United States government and authorized, for a continuous period of at least one year during the three years immediately preceding the date of application, to prescribe therapeutic devices and drugs, including at least some controlled substances, in conjunction with that employment.

(4) ~~If the applicant includes the evidence described in division (C)(3)(a) of this section, documentation from a licensed physician in a form acceptable to the board that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician in the other jurisdiction;~~

(5) ~~If the applicant includes the evidence described in division (C)(3)(b) of this section, documentation from a licensed physician employed by the United States government in a form acceptable to the board that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician employed by the United States government;~~

(6) Evidence of having completed a two-hour course of instruction approved by the board in the laws of this state that govern drugs and prescriptive authority;

(7)(5) Any additional information the board requires pursuant to rules adopted under section 4723.50 of the Revised Code.

(D) An applicant who practiced or is practicing as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner in another jurisdiction or as an employee of the United States government, and is not seeking authority to prescribe drugs and therapeutic devices by meeting the requirements of division (A) or (C) of this section, shall include with the application submitted under section 4723.48 of the Revised Code all of the

following:

(1) ~~Subject to section 4723.483 of the Revised Code, evidence~~ Evidence of holding a current, valid certificate of authority issued under this chapter to practice as a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(2) The fee required by section 4723.08 of the Revised Code for a certificate to prescribe;

(3) Either of the following:

(a) Evidence of having held, for a continuous period of at least one year during the three years immediately preceding the date of application, valid authority issued by another jurisdiction to prescribe therapeutic devices and drugs, excluding controlled substances;

(b) Evidence of having been employed by the United States government and authorized, for a continuous period of at least one year during the three years immediately preceding the date of application, to prescribe therapeutic devices and drugs, excluding controlled substances, in conjunction with that employment.

(4) ~~If the applicant includes the evidence described in division (D)(3)(a) of this section, documentation from a licensed physician in a form acceptable to the board that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician in the other jurisdiction;~~

(5) ~~If the applicant includes the evidence described in division (D)(3)(b) of this section, documentation from a licensed physician employed by the United States government in a form acceptable to the board that the prescribing component of the nurse's practice was overseen or supervised by a licensed physician employed by the United States government;~~

(6) Any additional information the board requires pursuant to rules adopted under section 4723.50 of the Revised Code.

Sec. 4723.485. (A) ~~⌘~~ (1) Except as provided in division (A)(2) of this section, a certificate to prescribe issued under section 4723.48 of the Revised Code as an externship certificate is valid for not more than one year, unless earlier suspended or revoked by the board of nursing. The

(2) An externship certificate may be extended beyond the period for an additional year which it was issued if the holder submits to the board evidence of continued participation in an externship. The extension period shall not exceed two years.

(3) If an externship is terminated for any reason, the nurse shall notify the board.

(B) To be eligible for a certificate to prescribe after receiving an

externship certificate, an applicant shall include with the application submitted under section 4723.48 of the Revised Code all of the following:

(1) A statement from a supervising physician attesting to the applicant's successful completion of the externship;

(2) The fee required by section 4723.08 of the Revised Code for a certificate to prescribe;

(3) Any additional information the board requires pursuant to rules adopted under section 4723.50 of the Revised Code.

Sec. 4723.487. (A) As used in this section, "drug database" means the database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(B) The board of nursing shall adopt rules in accordance with Chapter 119. of the Revised Code that establish standards and procedures to be followed by an advanced practice registered nurse with a certificate to prescribe issued under section 4723.48 of the Revised Code regarding the review of patient information available through the drug database.

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

Sec. 4723.50. (A) In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt rules as necessary to implement the provisions of this chapter pertaining to the authority of clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners to prescribe drugs and therapeutic devices and the issuance and renewal of certificates to prescribe.

The board shall adopt rules that are consistent with the recommendations the board receives from the committee on prescriptive governance pursuant to section 4723.492 of the Revised Code. After reviewing a recommendation submitted by the committee, the board may either adopt the recommendation as a rule or ask the committee to reconsider and resubmit the recommendation. The board shall not adopt any rule that does not conform to a recommendation made by the committee.

(B) The board shall adopt rules under this section that do all of the following:

(1) Establish a formulary listing the types of drugs and therapeutic devices that may be prescribed by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner. The formulary may include controlled substances, as defined in section 3719.01 of the Revised Code. The formulary shall not permit the prescribing of any drug or device to perform or induce an abortion.

(2) Establish safety standards to be followed by a clinical nurse

specialist, certified nurse-midwife, or certified nurse practitioner when personally furnishing to patients complete or partial supplies of antibiotics, antifungals, scabicides, contraceptives, prenatal vitamins, antihypertensives, drugs and devices used in the treatment of diabetes, drugs and devices used in the treatment of asthma, and drugs used in the treatment of dyslipidemia;

(3) Establish criteria for the components of the standard care arrangements described in section 4723.431 of the Revised Code that apply to the authority to prescribe, including the components that apply to the authority to prescribe schedule II controlled substances. The rules shall be consistent with that section and include all of the following:

(a) Quality assurance standards;

(b) Standards for periodic review by a collaborating physician or podiatrist of the records of patients treated by the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Acceptable travel time between the location at which the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is engaging in the prescribing components of the nurse's practice and the location of the nurse's collaborating physician or podiatrist;

(d) Any other criteria recommended by the committee on prescriptive governance.

(4) Establish standards and procedures for issuance and renewal of a certificate to prescribe, including specification of any additional information the board may require under division (A)(4), (C)~~(7)~~(5), or (D)~~(6)~~(5) of section 4723.482 or division (B)(3) of section 4723.485 of the Revised Code;

(5) Establish standards for board approval of the course of study in advanced pharmacology and related topics required by section 4723.482 of the Revised Code;

(6) Establish requirements for board approval of the two-hour course of instruction in the laws of this state as required under division (C)~~(6)~~(4) of section 4723.482 of the Revised Code and division (B)(2) of section 4723.484 of the Revised Code;

(7) Establish standards and procedures for the appropriate conduct of an externship as described in section 4723.484 of the Revised Code, including the following:

(a) Standards and procedures to be used in evaluating an individual's participation in an externship;

(b) Standards and procedures for the supervision that a physician must provide during an externship, including supervision provided by working with the participant and supervision provided by making timely reviews of

the records of patients treated by the participant. The manner in which supervision must be provided may vary according to the location where the participant is practicing and with the participant's level of experience.

Sec. 4723.61. As used in this section and in sections ~~4723.62~~ 4723.64 to 4723.69 of the Revised Code:

(A) "Medication" means a drug, as defined in section 4729.01 of the Revised Code.

(B) "Medication error" means a failure to follow the prescriber's instructions when administering a prescription medication.

(C) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(D) "Prescription medication" means a medication that may be dispensed only pursuant to a prescription.

(E) "Prescriber" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

Sec. 4723.64. ~~On and after the thirty first day following the board of nursing's submission of the report required by division (F)(2) of section 4723.63 of the Revised Code, any~~ A nursing home or residential care facility may use one or more medication aides to administer prescription medications to its residents, subject to both of the following conditions:

(A) Each individual used as a medication aide must hold a current, valid medication aide certificate issued by the board of nursing under this chapter.

(B) The nursing home or residential care facility shall ensure that the requirements of section 4723.67 of the Revised Code are met.

Sec. 4723.65. ~~(A)~~ An individual seeking certification as a medication aide shall apply to the board of nursing on a form prescribed and provided by the board. ~~If the~~ The application is submitted on or after the day any nursing home or residential care facility may initially use medication aides as specified in section 4723.64 of the Revised Code, the application shall be accompanied by the certification fee established in rules adopted under section 4723.69 of the Revised Code.

~~(B)(1) Except as provided in division (B)(2) of this section, an applicant for a medication aide certificate shall submit a request to the bureau of criminal identification and investigation for a criminal records check. The request shall be on the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and shall be accompanied by a standard impression sheet to obtain fingerprints prescribed pursuant to division (C)(2) of that section. The request shall also be accompanied by the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code. On receipt of the completed form, the completed impression sheet, and the fee,~~

~~the bureau shall conduct a criminal records check of the applicant. On completion of the criminal records check, the bureau shall send the results of the check to the board. An applicant requesting a criminal records check under this division who has not lived in this state for at least five years shall ask the superintendent of the bureau of criminal identification and investigation to also request that the federal bureau of investigation provide the superintendent with any information it has with respect to the applicant.~~

~~(2) If a criminal records check of an applicant was completed pursuant to section 3721.121 of the Revised Code not more than five years prior to the date the application is submitted, the applicant may include a certified copy of the criminal records check completed pursuant to that section and is not required to comply with division (B)(1) of this section.~~

~~(3) A criminal records check provided to the board in accordance with division (B)(1) or (B)(2) of this section shall not be made available to any person or for any purpose other than the following:~~

~~(a) The results may be made available to any person for use in determining whether the individual who is the subject of the check should be issued a medication aide certificate.~~

~~(b) The results may be made available to the person who is the subject of the check or a representative of that person.~~

Sec. 4723.651. (A) To be eligible to receive a medication aide certificate, an applicant shall meet all of the following conditions:

(1) Be at least eighteen years of age;

(2) Have a high school diploma or a high school equivalence diploma as defined in section 5107.40 of the Revised Code;

(3) If the applicant is to practice as a medication aide in a nursing home, be a nurse aide who satisfies the requirements of division (A)(1), (2), (3), (4), (5), (6), or (8) of section 3721.32 of the Revised Code;

(4) If the applicant is to practice as a medication aide in a residential care facility, be a nurse aide who satisfies the requirements of division (A)(1), (2), (3), (4), (5), (6), or (8) of section 3721.32 of the Revised Code or an individual who has at least one year of direct care experience in a residential care facility;

(5) Successfully complete the course of instruction provided by a training program approved by the board under section 4723.66 of the Revised Code;

~~(6) Have results on the criminal records check provided to the board under division (B)(1) or (2) of section 4723.65 of the Revised Code indicating that the applicant has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section~~



~~2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country~~ Not be ineligible for licensure or certification as specified in section 4723.092 of the Revised Code;

(7) Have not committed any act that is grounds for disciplinary action under section 3123.47 or 4723.28 of the Revised Code or be determined by the board to have made restitution, been rehabilitated, or both;

(8) Not be required to register under Chapter 2950. of the Revised Code or a substantially similar law of another state, the United States, or another country;

(9) Meet all other requirements for a medication aide certificate established in rules adopted under section 4723.69 of the Revised Code.

(B) If an applicant meets the requirement specified in division (A) of this section, the board shall issue a medication aide certificate to the applicant. If a medication aide certificate is issued to an individual on the basis of having at least one year of direct care experience working in a residential care facility, as provided in division (A)(4) of this section, the certificate is valid for use only in a residential care facility. The board shall state the limitation on the certificate issued to the individual.

(C) A medication aide certificate is valid for two years, unless earlier suspended or revoked. The certificate may be renewed in accordance with procedures specified by the board in rules adopted under section 4723.69 of the Revised Code. To be eligible for renewal, an applicant shall pay the renewal fee established in the rules and meet all renewal qualifications specified in the rules.

Sec. 4723.652. (A) The board of nursing, by vote of a quorum, may impose one or more of the following sanctions against any individual who applies for, or holds, a medication aide certificate: deny, revoke, suspend, or place restrictions on the certificate; reprimand or otherwise discipline the holder of a medication aide certificate; or impose a fine of not more than five hundred dollars per violation. The sanctions may be imposed for any of the reasons specified in division (A) or (B) of section 4723.28 of the Revised Code, to the extent that those reasons are applicable to medication aides or applicants as specified in rules adopted under section 4723.69 of the Revised Code.

(B) Disciplinary actions taken by the board under this section shall be taken pursuant to an adjudication conducted under Chapter 119. of the Revised Code, except that in lieu of a hearing, the board may enter into a consent agreement with an individual to resolve an allegation of a violation

of this chapter or any rule adopted under it. A consent agreement, when ratified by vote of a quorum, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the agreement shall be of no effect.

(C) In taking actions under this section, the board has the same powers and duties that it has when taking actions under section 4723.28 of the Revised Code. In addition, the board may issue an order to summarily suspend or automatically suspend a medication aide certificate in the same manner that the board is authorized to take those actions under section 4723.281 of the Revised Code.

Sec. 4723.653. (A) No person shall engage in the administration of medication as a medication aide, represent the person as being a certified medication aide, or use the title, "medication aide," or any other title implying that the person is a certified medication aide, for a fee, salary, or other compensation, or as a volunteer, without holding a current, valid certificate as a medication aide under this chapter.

(B) No person shall employ a person not certified as a medication aide under this chapter to engage in the administration of medication as a medication aide.

Sec. 4723.66. (A) A person or government entity seeking approval to provide a medication aide training program shall apply to the board of nursing on a form prescribed and provided by the board. ~~If the application is submitted on or after the day any nursing home or residential care facility may initially use medication aides as specified in section 4723.64 of the Revised Code, the~~ The application shall be accompanied by the fee established in rules adopted under section 4723.69 of the Revised Code.

(B) The board shall approve the applicant to provide a medication aide training program if the content of the course of instruction to be provided by the program meets the standards specified by the board in rules adopted under section 4723.69 of the Revised Code and includes all of the following:

(1) At least seventy clock-hours of instruction, including both classroom instruction on medication administration and at least twenty clock-hours of supervised clinical practice in medication administration;

(2) A mechanism for evaluating whether an individual's reading, writing, and mathematical skills are sufficient for the individual to be able to administer prescription medications safely;

(3) An examination that tests the ability to administer prescription medications safely and that meets the requirements established by the board in rules adopted under section 4723.69 of the Revised Code.

(C) The board may deny, suspend, or revoke the approval granted to the provider of a medication aide training program for reasons specified in rules adopted under section 4723.69 of the Revised Code. All actions taken by the board to deny, suspend, or revoke the approval of a training program shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 4723.67. (A) Except for the prescription medications specified in division (C) of this section and the methods of medication administration specified in division (D) of this section, a medication aide who holds a current, valid medication aide certificate issued under this chapter may administer prescription medications to the residents of nursing homes and residential care facilities that use medication aides pursuant to section ~~4723.63~~ or 4723.64 of the Revised Code. A medication aide shall administer prescription medications only pursuant to the delegation of a registered nurse or a licensed practical nurse acting at the direction of a registered nurse.

Delegation of medication administration to a medication aide shall be carried out in accordance with the rules for nursing delegation adopted under this chapter by the board of nursing. A nurse who has delegated to a medication aide responsibility for the administration of prescription medications to the residents of a nursing home or residential care facility shall not withdraw the delegation on an arbitrary basis or for any purpose other than patient safety.

(B) In exercising the authority to administer prescription medications pursuant to nursing delegation, a medication aide may administer prescription medications in any of the following categories:

- (1) Oral medications;
- (2) Topical medications;
- (3) Medications administered as drops to the eye, ear, or nose;
- (4) Rectal and vaginal medications;
- (5) Medications prescribed with a designation authorizing or requiring administration on an as-needed basis, but only if a nursing assessment of the patient is completed before the medication is administered.

(C) A medication aide shall not administer prescription medications in either of the following categories:

- (1) Medications containing a schedule II controlled substance, as defined in section 3719.01 of the Revised Code;
- (2) Medications requiring dosage calculations.

(D) A medication aide shall not administer prescription medications by any of the following methods:

- (1) Injection;

- (2) Intravenous therapy procedures;
- (3) Splitting pills for purposes of changing the dose being given.

(E) A nursing home or residential care facility that uses medication aides shall ensure that medication aides do not have access to any schedule II controlled substances within the home or facility for use by its residents.

Sec. 4723.68. (A) A registered nurse, or licensed practical nurse acting at the direction of a registered nurse, who delegates medication administration to a medication aide who holds a current, valid medication aide certificate issued under this chapter is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly arises from an action or omission of the medication aide in performing the medication administration, if the delegating nurse delegates the medication administration in accordance with this chapter and the rules adopted under this chapter.

(B) A person employed by a nursing home or residential care facility that uses medication aides pursuant to section ~~4723.63~~ or 4723.64 of the Revised Code who reports in good faith a medication error at the nursing home or residential care facility is not subject to disciplinary action by the board of nursing or any other government entity regulating that person's professional practice and is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly results from reporting the medication error.

Sec. 4723.69. (A) ~~In consultation with the medication aide advisory council created under section 4723.62 of the Revised Code, the~~ The board of nursing shall adopt rules to implement sections 4723.61 to 4723.68 of the Revised Code. ~~Initial rules shall be adopted not later than February 1, 2006.~~ All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The rules adopted under this section shall establish or specify all of the following:

(1) Fees, in an amount sufficient to cover the costs the board incurs in implementing sections 4723.61 to 4723.68 of the Revised Code, for ~~participation in the medication aide pilot program~~, certification as a medication aide, and approval of a medication aide training program;

(2) Requirements to obtain a medication aide certificate that are not otherwise specified in section 4723.651 of the Revised Code;

(3) Procedures for renewal of medication aide certificates;

(4) The extent to which the board determines that the reasons for taking disciplinary actions under section 4723.28 of the Revised Code are applicable reasons for taking disciplinary actions under section 4723.652 of

the Revised Code against an applicant for or holder of a medication aide certificate;

~~(5) Standards for approval of peer support programs for the holders of medication aide certificates;~~

~~(6) Standards for medication aide training programs, including the examination to be administered by the training program to test an individual's ability to administer prescription medications safely;~~

(6) Standards for approval of continuing education programs and courses for medication aides;

(7) Reasons for denying, revoking, or suspending approval of a medication aide training program;

(8) Other standards and procedures the board considers necessary to implement sections 4723.61 to 4723.68 of the Revised Code.

Sec. 4723.71. (A) There is hereby established, under the board of nursing, the advisory group on dialysis. The advisory group shall advise the board of nursing regarding the qualifications, standards for training, and competence of dialysis technicians and dialysis technician interns and all other related matters ~~related to dialysis technicians~~. The advisory group shall consist of the members appointed under divisions (B) and (C) of this section. A member of the board of nursing or a representative appointed by the board shall serve as chairperson of all meetings of the advisory group.

(B) The board of nursing shall appoint the following as members of the advisory group:

(1) Four dialysis technicians;

(2) A registered nurse who regularly performs dialysis and cares for patients who receive dialysis;

(3) A physician, recommended by the state medical board, who specializes in nephrology;

(4) An administrator of a dialysis center;

(5) A dialysis patient;

~~(6) A representative of the association for hospitals and health systems (OHA)~~ Ohio hospital association;

(7) A representative from the end-stage renal disease network, as defined in 42 C.F.R. 405.2102.

(C) The members of the advisory group appointed under division (B) of this section may recommend additional persons to serve as members of the advisory group. The board of nursing may appoint, as appropriate, any of the additional persons recommended.

(D) The board of nursing shall specify the terms for the advisory group members. Members shall serve at the discretion of the board of nursing.

Members shall receive their actual and necessary expenses incurred in the performance of their official duties.

(E) Sections 101.82 to 101.87 of the Revised Code do not apply to the advisory group.

Sec. 4723.72. (A) A dialysis technician or dialysis technician intern may engage in dialysis care by doing the following:

(1) Performing and monitoring dialysis procedures, including initiating, monitoring, and discontinuing dialysis;

(2) Drawing blood;

(3) Administering ~~any of the~~ medications as specified in division (C) of this section when the administration is essential to the dialysis process;

(4) Responding to complications that arise during dialysis.

(B) ~~A~~ (1) Subject to divisions (B)(2) and (3) of this section, a dialysis technician or dialysis technician intern may provide the dialysis care specified in division (A) of this section only if the care has been delegated to the technician or intern by a physician or registered nurse and the technician or intern is under the supervision of a physician or registered nurse. Supervision requires that the dialysis technician or dialysis technician intern be in the immediate presence of a physician or registered nurse, ~~or, in,~~

(2) In accordance with division (E) of section 4723.73 of the Revised Code, a dialysis technician intern shall not provide dialysis care in a patient's home.

(3) In the case of dialysis care provided in a patient's home by a dialysis technician, that the dialysis both of the following apply:

(a) The technician shall be supervised in accordance with the rules adopted under section 4723.79 of the Revised Code for supervision of dialysis technicians who provide dialysis care in a patient's home. ~~Division (E)~~

(b) Division (D)(5) of section 4723.73 of the Revised Code does not allow a dialysis technician who provides dialysis care in a patient's home to provide dialysis care that is not authorized under this section.

(C) A dialysis technician or dialysis technician intern may administer ~~medication~~ only the following medications as ordered by a licensed health professional authorized to prescribe drugs as defined in section 4729.01 of the Revised Code and in accordance with the standards for the delegation of dialysis care established in division (B) of this section and in rules adopted under section 4723.79 of the Revised Code. ~~A dialysis technician may administer only the following medications:~~

(1) Intradermal lidocaine or other single therapeutically equivalent local anesthetic for the purpose of initiating dialysis treatment;

(2) Intravenous heparin or other single therapeutically equivalent anticoagulant for the purpose of initiating and maintaining dialysis treatment;

(3) Intravenous normal saline;

(4) Patient-specific dialysate, to which the ~~person~~ technician or intern may add electrolytes but no other additives or medications;

(5) Oxygen, ~~when the administration of the oxygen has been delegated to the technician by a registered nurse.~~

Sec. 4723.73. (A) No person ~~shall claim to the public to be a dialysis technician unless the person holds~~ who does not hold a current, valid certificate issued under section 4723.75 or renewed under section 4723.77 ~~or a current, valid temporary certificate issued under section 4723.76~~ of the Revised Code: shall do either of the following:

(1) Claim to the public to be a dialysis technician;

~~(B) No person shall use~~ (2) Use the title "Ohio certified dialysis technician," the initials "OCDT," or any other title or initials to represent that the person is authorized to perform dialysis care as a ~~fully certified dialysis technician, unless the person holds a current, valid certificate issued under section 4723.75 or renewed under section 4723.77 of the Revised Code.~~

~~(C)(B)~~ No person who does not hold a current, valid dialysis technician intern certificate issued under section 4723.76 of the Revised Code shall use any do either of the following:

(1) Claim to the public to be a dialysis technician intern;

(2) Use the ~~or~~ "dialysis technician intern," the initials "DTI," or any other title or initials to represent that the person is authorized to perform dialysis care as a ~~temporarily certified dialysis technician, unless the person holds a current, valid temporary certificate issued under section 4723.76 of the Revised Code~~ intern.

~~(D)(C)~~ No dialysis technician or dialysis technician intern shall engage in dialysis care in a manner that is inconsistent with section 4723.72 of the Revised Code.

~~(E)(D)~~ No person other than a dialysis technician or dialysis technician intern shall engage in the dialysis care that is authorized by section 4723.72 of the Revised Code, unless the person is one or more of the following applies:

(1) ~~The person is a~~ A registered nurse or licensed practical nurse;

(2) ~~The person is a~~ A physician;

(3) ~~The person is a~~ A student performing dialysis care under the supervision of an instructor as an integral part of a dialysis training program

approved by the board of nursing under section 4723.74 of the Revised Code.:

(4) ~~The person is a~~ A dialysis patient who has been trained to engage in the dialysis care with little or no professional assistance by completing a medicare-approved self-dialysis or home dialysis training program.:

(5) ~~The person is a~~ A family member or friend of a dialysis patient who engages in self-dialysis or home dialysis, and the person engages in the dialysis care by assisting the patient in performing the self-dialysis or home dialysis, after the person providing the assistance has completed a medicare-approved self-dialysis or home dialysis training program for the particular dialysis patient being assisted.

(E) No dialysis technician intern shall do either of the following:

(1) Serve as a trainer or preceptor in a dialysis training program;

(2) Provide dialysis care in a patient's home.

(F) No person shall operate a dialysis training program, unless the program is approved by the board of nursing under section 4723.74 of the Revised Code.

Sec. 4723.74. (A) A person who seeks to operate a dialysis training program shall apply to the board of nursing for approval of the program. Applications shall be submitted in accordance with rules adopted under section 4723.79 of the Revised Code. The person shall include with the application the fee prescribed in those rules. If the program meets the requirements for approval as specified in the rules, the board shall approve the program. A program shall apply for reapproval and may be reapproved in accordance with rules adopted under section 4723.79 of the Revised Code.

(B) The board may place on provisional approval, for a period of time it specifies, a dialysis training program that has ceased to meet and maintain the minimum standards of the board established by rules adopted under section 4723.79 of the Revised Code. Prior to or at the end of the period, the board shall reconsider whether the program meets the standards. The board shall grant full approval if the program meets the standards. If the program does not meet the standards, the board may withdraw approval in accordance with division (C) of this section.

(C) The board may withdraw the approval of a program that ceases to meet the requirements for approval. Any action to withdraw the approval shall be taken in accordance with Chapter 119. of the Revised Code.

~~(B) A person~~ (D) An individual shall not be permitted to enroll, and shall not enroll, in a dialysis training program approved by the board under ~~division (A)~~ of this section unless the ~~person~~ individual is eighteen years of



age or older and possesses a high school diploma or high school equivalence diploma.

Sec. 4723.75. (A) The board of nursing shall issue a certificate to practice as a dialysis technician to ~~a person~~ an applicant who meets ~~all of~~ the following applicable requirements:

(1) For all ~~persons~~ applicants, the ~~person~~ applicant ~~applies~~ application is submitted to the board in accordance with rules adopted under section 4723.79 of the Revised Code and includes ~~with the application~~ the both of the following:

(a) The fee established in those rules adopted under section 4723.79 of the Revised Code;

(b) The name and address of each approved dialysis training program in which the applicant has enrolled and the dates during which the applicant was enrolled in each program.

(2) For all ~~persons~~ applicants, the ~~person~~ applicant meets the requirements established by the board's rules.

(3) For all ~~persons~~ applicants, the ~~person~~ applicant demonstrates competency to practice as a dialysis technician, as specified ~~under~~ in division (B) of this section.

(4) For ~~persons~~ applicants who entered a dialysis training program on or after June 1, 2003, the results of a criminal records check of the person that is completed by the bureau of criminal identification and investigation and includes a check of federal bureau of investigation records and that the bureau submits to the board indicates that the person has not been convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country conducted in accordance with section 4723.091 of the Revised Code demonstrate that the applicant is not ineligible for certification as specified in section 4723.092 of the Revised Code.

(B) For ~~a person~~ an applicant to demonstrate competence to practice as a dialysis technician, one of the following must apply:

(1) The ~~person~~ applicant ~~meets all of the following requirements:~~

~~(a) The person~~ applicant ~~has successfully completed a dialysis training program approved by the board under section 4723.74 of the Revised Code-~~

~~(b) The person has been employed to perform and meets both of the following requirements:~~

~~(a) Has performed dialysis care by~~ for a dialysis provider for not less than twelve months immediately prior to the date of application-

~~(e) The person passes;~~

~~(b) Has passed~~ a certification examination demonstrating competence to perform dialysis care. ~~The person must pass the examination not later than eighteen months after entering successfully completing~~ a dialysis training program approved by the board under section 4723.74 of the Revised Code. ~~A person who does not pass the examination within eighteen months after entering a dialysis training program must repeat and successfully complete the training program, or successfully complete another dialysis training program approved by the board, and pass the examination not less than six months after entering the new or repeated program. A person who does not pass the examination within six months after entering the new or repeated program must wait at least one year before entering or reentering any dialysis training program approved by the board, after which the person must successfully complete a dialysis training program approved by the board and pass the examination not later than six months after entering the program.~~

~~(2) The person meets both of the following requirements:~~

~~(a) The person holds, on December 24, 2000, a current, valid certificate from a qualifying testing organization specified by the board under division (B) of section 4723.751 of the Revised Code or provides evidence satisfactory to the board of having passed the examination of a qualifying testing organization not longer than five years prior to December 24, 2000.~~

~~(b) The dialysis provider who employs the person provides the board with the information specified in rules adopted under section 4723.79 of the Revised Code attesting to the person's competence to perform dialysis care.~~

~~(3) The person submits evidence satisfactory to the board that the person holds a current, valid license, certificate, or other authorization to perform dialysis care issued by another state that has standards for dialysis technicians that the board considers substantially similar to those established under sections 4723.71 to 4723.79 of the Revised Code applicant does all of the following:~~

~~(a) Has a testing organization approved by the board submit evidence satisfactory to the board that the applicant passed an examination, in another jurisdiction, that demonstrates the applicant's competence to provide dialysis care;~~

~~(b) Submits evidence satisfactory to the board that the applicant has been employed to perform dialysis care in another jurisdiction for not less than twelve months immediately prior to the date of application for certification under this section;~~

~~(c) Submits evidence satisfactory to the board that the applicant~~

completed at least two hours of education directly related to this chapter and the rules adopted under it.

~~(C) A person who applies under this section to be certified to practice as a dialysis technician shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant. The request shall be on the form prescribed pursuant to division (C)(1) of section 109.572, accompanied by a standard impression sheet to obtain fingerprints prescribed pursuant to division (C)(2) of that section, and accompanied by the fee prescribed pursuant to division (C)(3) of that section. Upon receipt of the completed form, the completed impression sheet, and the fee, the bureau shall conduct a criminal records check of the applicant. Upon completion of the criminal records check, the bureau shall send the results of the check to the board. A person requesting a criminal records check under this division shall ask the superintendent of the bureau of criminal identification and investigation to also request the federal bureau of investigation to provide the superintendent with any information it has with respect to the person.~~

~~The results of any criminal records check conducted pursuant to a request made under this section, and any report containing those results, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than the following:~~

~~(1) The results may be made available to any person for use in determining under this section and division (N) of section 4723.28 of the Revised Code whether the individual who is the subject of the check should be issued a certificate to practice as a dialysis technician.~~

~~(2) The results may be made available to the individual who is the subject of the check or that individual's representative. An applicant who does not pass the certification examination described in division (B)(1)(b) of this section within the time period prescribed in that division may continue to pursue certification by repeating the entire training and application process, including doing all of the following:~~

~~(1) Enrolling in and successfully completing a dialysis training program approved by the board;~~

~~(2) Submitting a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records pursuant to section 4723.091 of the Revised Code;~~

~~(3) Submitting an application for a dialysis technician intern certificate in accordance with section 4723.76 of the Revised Code;~~

~~(4) Demonstrating competence to perform dialysis care in accordance~~

with division (B) of this section.

Sec. 4723.751. ~~(A)~~ The board of nursing shall either conduct dialysis technician certification examinations itself or, in accordance with rules adopted under section 4723.79 of the Revised Code, approve testing organizations to conduct the examinations. If it conducts the examinations, the board may use all or part of a standard examination created by a testing organization approved by the board. Regardless of who conducts it, the examination shall cover all of the subjects specified in rules adopted under section 4723.79 of the Revised Code.

~~(B) The board shall specify the testing organizations that qualify a person to demonstrate competence to practice as a dialysis technician pursuant to division (B)(2) of section 4723.75 of the Revised Code.~~

Sec. 4723.76. (A) The board of nursing shall issue a ~~temporary~~ certificate to practice as a dialysis technician intern ~~to a person~~ an applicant ~~who has not passed the dialysis technician certification examination required by section 4723.751 of the Revised Code, but~~ who ~~meets~~ satisfies all of the following requirements:

(1) ~~The person applies~~ Applies to the board in accordance with rules adopted under section 4723.79 of the Revised Code and includes with the application ~~the both of the following:~~

(a) The fee established in those rules adopted under section 4723.79 of the Revised Code;

(b) The name and address of all dialysis training programs approved by the board in which the applicant has been enrolled and the dates of enrollment in each program.

(2) ~~The person provides~~ Provides documentation from the ~~person's~~ applicant's employer ~~that demonstrates~~ attesting that the ~~person~~ applicant is competent to perform dialysis care;

(3) ~~One of the following applies:~~

~~(a) The person has~~ Has successfully completed a dialysis training program approved by the board of nursing under section 4723.74 of the Revised Code.

~~(b) The person is, on December 24, 2000, employed as a dialysis technician but has been so employed for less than twelve months.~~

~~(c) The person has experience as a dialysis technician in a jurisdiction that does not license or certify dialysis technicians and has successfully completed a training program that is substantially similar to a program approved by the board.~~

(B) A temporary dialysis technician intern certificate issued to ~~a person~~ an applicant who meets the ~~requirement~~ requirements in division (A)~~(3)~~(a)

of this section is valid for a period of time that is eighteen months from the date on which the ~~holder entered~~ applicant successfully completed a dialysis training program approved by the board under section 4723.74 of the Revised Code, minus the time the applicant was enrolled in one or more dialysis training programs approved by the board.

~~A temporary certificate issued to a person who meets the requirement in division (A)(3)(b) of this section is valid for the number of months equal to eighteen months minus the number of months the person has been employed as a dialysis technician.~~

~~A temporary certificate issued to a person who meets the requirement in division (A)(3)(e) of this section and has been working as a dialysis technician for twelve months or longer is valid for six months. A temporary certificate issued to a person who meets the requirement in division (A)(3)(e) of this section and has been employed as a dialysis technician for less than twelve months is valid for the number of months equal to eighteen months minus the number of months the person has been employed as a dialysis technician.~~

(C) ~~A temporary dialysis technician intern certificate issued under this section may not be renewed once if the holder enrolls or re-enrolls in a dialysis training program approved by the board. A temporary certificate that has been renewed is not renewable. A person holding a temporary certificate shall provide a copy of the temporary certificate to the dialysis provider who employs the person. The person shall not act as a trainer or preceptor in any dialysis training program.~~

Sec. 4723.77. A dialysis technician certificate issued under section 4723.75 of the Revised Code expires biennially and shall be renewed according to a schedule established by the board of nursing in rules adopted under section 4723.79 of the Revised Code. An application for renewal of a dialysis technician certificate shall be accompanied by the renewal fee established in rules adopted by the board under section 4723.79 of the Revised Code. A certificate may be renewed only if, during the period for which the certificate was issued, the certificate holder satisfied the continuing education requirements established by the board's rules. Of the hours of continuing education completed during the period for which the dialysis technician certificate was issued, at least one hour of the education must be directly related to the statutes and rules pertaining to the practice of nursing in this state or the practice as a dialysis technician in this state.

Sec. 4723.79. The board of nursing shall adopt rules to administer and enforce sections 4723.71 to 4723.79 of the Revised Code. The board shall adopt the rules in accordance with Chapter 119. of the Revised Code. The

rules shall establish or specify all of the following:

(A) The application process, fee, and requirements for approval, reapproval, and withdrawing the approval of a dialysis training program under section 4723.74 of the Revised Code. The requirements shall include standards that must be satisfied regarding curriculum, length of training, and instructions in patient care.

(B) The application process, fee, and requirements for issuance of a dialysis technician certificate under section 4723.75 of the Revised Code, except that the amount of the fee shall be no greater than the fee charged under division (A)(1) of section 4723.08 of the Revised Code;

(C) The application process, fee, and requirements for issuance of a ~~temporary~~ dialysis technician intern certificate under section 4723.76 of the Revised Code;

(D) The process for approval of testing organizations under section 4723.751 of the Revised Code;

(E) Subjects to be included in a certification examination ~~provided for in division (B)(1) of~~ pursuant to section 4723.75 4723.751 of the Revised Code;

(F) The schedule, fees, and continuing education requirements for renewal of a dialysis technician certificate under section 4723.77 of the Revised Code, except that the amount of the fee for ~~the~~ renewal ~~of a certificate~~ shall be no greater than the fee charged under division (A)(~~9~~)(10) of section 4723.08 of the Revised Code ~~or, effective September 1, 2003, division (A)(10) of that section;~~

(G) ~~Standards and procedures for establishing and maintaining the dialysis registry required by section 4723.78 of the Revised Code, including standards and procedures that persons must follow in providing the information to be included in the registry for approval of continuing education programs and courses for dialysis technicians;~~

(H) Standards for the administration of medication by dialysis technicians and dialysis technician interns under section 4723.72 of the Revised Code;

(I) ~~The information a dialysis provider is to provide to the board when attesting to a person's competence to perform dialysis;~~

(~~J~~) Standards and procedures for the supervision of dialysis technicians who provide dialysis care in a patient's home, including monthly home visits by a registered nurse to monitor the quality of the dialysis care;

(~~K~~)(J) Any other procedures or requirements necessary for the administration and enforcement of sections 4723.71 to 4723.79 of the Revised Code.

Sec. 4723.83. (A) An individual seeking a community health worker certificate shall submit an application to the board of nursing on forms the board shall prescribe and furnish. The applicant shall include all information the board requires to process the application. The application shall be accompanied by the fee established in rules adopted under section 4723.88 of the Revised Code.

~~(B) An applicant for a community health worker certificate shall submit a request to the bureau of criminal identification and investigation for a criminal records check of the applicant. The request shall be on the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, accompanied by a standard impression sheet to obtain fingerprints prescribed pursuant to division (C)(2) of that section, and accompanied by the fee prescribed pursuant to division (C)(3) of that section. On receipt of the completed form, the completed impression sheet, and the fee, the bureau shall conduct a criminal records check of the applicant. On completion of the criminal records check, the bureau shall send the results of the check to the board. The applicant shall ask the superintendent of the bureau of criminal identification and investigation to request that the federal bureau of investigation provide the superintendent with any information it has with respect to the applicant.~~

~~The results of any criminal records check conducted pursuant to a request made under this section, and any report containing those results, are not public records for purposes of section 149.43 of the Revised Code and shall not be made available to any person or for any purpose other than the following:~~

~~(1) The results may be made available to any person for use in determining whether the individual who is the subject of the check should be issued a community health worker certificate.~~

~~(2) The results may be made available to the individual who is the subject of the check or that individual's representative.~~

Sec. 4723.84. (A) To be eligible to receive a community health worker certificate, an applicant shall meet all of the following conditions:

(1) Be eighteen years of age or older;

(2) Possess a high school diploma or the equivalent of a high school diploma, as determined by the board;

(3) Except as provided in division (B) of this section, successfully complete a community health worker training program approved by the board under section 4723.87 of the Revised Code;

~~(4) Have results on the criminal records check requested under section 4723.83 of the Revised Code indicating that the individual has not been~~

~~convicted of, has not pleaded guilty to, and has not had a judicial finding of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a substantially similar law of another state, the United States, or another country~~ Not be ineligible for certification as specified in section 4723.092 of the Revised Code;

(5) Not have committed any act that is grounds for disciplinary action under section 3123.47 of the Revised Code or rules adopted under division (F) of section 4723.88 of the Revised Code or, if such an act has been committed, be determined by the board to have made restitution, been rehabilitated, or both;

(6) Not be required to register under Chapter 2950. of the Revised Code or a substantially similar law of another state, the United States, or another country;

(7) Meet all other requirements the board specifies in rules adopted under section 4723.88 of the Revised Code.

(B) In lieu of meeting the condition of completing a community health worker training program, an applicant may be issued a community health worker certificate if the individual was employed in a capacity substantially the same as a community health worker ~~before the board implemented the certification program~~ prior to February 1, 2005. To be eligible under this division, an applicant must meet the requirements specified in rules adopted by the board under section 4723.88 of the Revised Code and provide documentation from the employer attesting to the employer's belief that the applicant is competent to perform activities as a certified community health worker.

Sec. 4723.87. (A) A person or government entity seeking to operate a training program that prepares individuals to become certified community health workers shall submit an application to the board of nursing on forms the board shall prescribe and furnish. The applicant shall include all information the board requires to process the application. The application shall be accompanied by the fee established in rules adopted under section 4723.87 of the Revised Code.

The board shall review all applications received. If an applicant meets the standards for approval established in the board's rules adopted under section 4723.88 of the Revised Code, the board shall approve the program.

(B) The board's approval of a training program expires biennially and may be renewed in accordance with the schedule and procedures established by the board in rules adopted under section 4723.88 of the Revised Code.

(C) If an approved community health worker training program ceases to



meet the standards for approval, the board shall withdraw its approval of the program, refuse to renew its approval of the program, or place the program on provisional approval. In withdrawing or refusing to renew its approval, the board shall act in accordance with Chapter 119. of the Revised Code. In placing a program on provisional approval, the board shall specify the period of time during which the provisional approval is valid. ~~At~~ Prior to or at the end of the period, the board shall reconsider whether the program meets the standards for approval. If the program meets the standards for approval, the board shall reinstate its full approval of the program or renew its approval of the program. If the program does not meet the standards for approval, the board shall proceed by withdrawing or refusing to renew its approval of the program.

Sec. 4723.88. The board of nursing, in accordance with Chapter 119. of the Revised Code, shall adopt rules to administer and enforce sections 4723.81 to 4723.87 of the Revised Code. The rules shall establish all of the following:

(A) Standards and procedures for issuance of community health worker certificates;

(B) Standards for evaluating the competency of an individual who applies to receive a certificate on the basis of having been employed in a capacity substantially the same as a community health worker before the board implemented the certification program;

(C) Standards and procedures for renewal of community health worker certificates, including the continuing education requirements that must be met for renewal;

(D) Standards governing the performance of activities related to nursing care that are delegated by a registered nurse to certified community health workers. In establishing the standards, the board shall specify limits on the number of certified community health workers a registered nurse may supervise at any one time.

(E) Standards and procedures for assessing the quality of the services that are provided by certified community health workers;

(F) Standards and procedures for denying, suspending, and revoking a community health worker certificate, including reasons for imposing the sanctions that are substantially similar to the reasons that sanctions are imposed under section 4723.28 of the Revised Code;

(G) Standards and procedures for approving and renewing the board's approval of training programs that prepare individuals to become certified community health workers. In establishing the standards, the board shall specify the minimum components that must be included in a training

program, shall require that all approved training programs offer the standardized curriculum, and shall ensure that the curriculum enables individuals to use the training as a basis for entering programs leading to other careers, including nursing education programs.

(H) Standards for approval of continuing education programs and courses for certified community health workers:

(I) Standards and procedures for withdrawing the board's approval of a training program, refusing to renew the approval of a training program, and placing a training program on provisional approval;

~~(J)~~(J) Amounts for each fee that may be imposed under division (A)~~(25)~~(21) of section 4723.08 of the Revised Code;

~~(K)~~(K) Any other standards or procedures the board considers necessary and appropriate for the administration and enforcement of sections 4723.81 to 4723.87 of the Revised Code.

Sec. 4723.99. (A) Except as provided in division (B) of this section, whoever violates section 4723.03, 4723.44, ~~4723.653~~, or 4723.73 of the Revised Code is guilty of a felony of the fifth degree on a first offense and a felony of the fourth degree on each subsequent offense.

(B) ~~A~~ Each of the following is guilty of a minor misdemeanor:

(1) ~~A~~ A registered nurse or licensed practical nurse who violates division (A) or (B) of section 4723.03 of the Revised Code by reason of a license to practice nursing that has lapsed for failure to renew or by practicing nursing after a license has been classified as inactive is guilty of a minor misdemeanor;

(2) A medication aide who violates section 4723.653 of the Revised Code by reason of a medication aide certificate that has lapsed for failure to renew or by administering medication as a medication aide after a certificate has been classified as inactive.

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.

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

(1) A health care practitioner, as defined in section 4769.01 of the Revised Code, who does not sell or rent home medical equipment;

(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;

(3) A manufacturer or wholesale distributor of home medical equipment that does not sell directly to the public;

(4) A hospice care program or pediatric respite care program, as defined by section 3712.01 of the Revised Code, that does not sell or rent home medical equipment;

(5) A home, as defined by section 3721.01 of the Revised Code;

(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;

(7) An individual who holds a current, valid license issued under Chapter 4741. of the Revised Code to practice veterinary medicine;

(8) An individual who holds a current, valid license issued under Chapter 4779. of the Revised Code to practice orthotics, prosthetics, or pedorthics;

(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. 4759.01. As used in this chapter:

(A) ~~"The practice~~ Practice of dietetics" means any of the following:

(1) Nutritional assessment to determine nutritional needs and to recommend appropriate nutritional intake, including enteral and parenteral nutrition;

(2) Nutritional counseling or education as components of preventive, curative, and restorative health care;

(3) Development, administration, evaluation, and consultation regarding nutritional care standards.

(B) ~~"The American dietetic association~~ Academy of nutrition and dietetics" means the national professional organization ~~of dietitians that provides direction and leadership for quality dietetic practice, education, and research~~ known by that name or a successor organization that serves in an equivalent capacity.

(C) ~~"Commission on dietetic registration" means the commission on dietetic registration that is a member of the national commission on health certifying agencies~~ entity that serves as the credentialing agency for the academy of nutrition and dietetics.

(D) "Ohio academy of nutrition and dietetics" means the state professional organization known by that name or a successor organization

that serves in an equivalent capacity.

Sec. 4759.03. There is hereby created the Ohio board of dietetics consisting of five members appointed by the governor with the advice and consent of the senate. The Ohio ~~dietetic association~~ academy of nutrition and dietetics may submit a list of five names for each position or vacancy on the board to be filled by a dietitian, and the governor may make ~~his~~ appointments from the persons so recommended or from other persons. ~~Within~~

~~Within~~ thirty days of ~~the effective date of this section~~ July 1, 1987, the governor shall make initial appointments to the board. Of the initial appointments, one shall be for a term ending one year after ~~the effective date of this section~~ July 1, 1987, one shall be for a term ending two years after ~~the effective date of this section~~ July 1, 1987, one shall be for a term ending three years after ~~the effective date of this section~~ July 1, 1987, one shall be for a term ending four years after ~~the effective date of this section~~ July 1, 1987, and one shall be for a term ending five years after ~~the effective date of this section~~ July 1, 1987. Thereafter, terms of office shall be for five years, each term ending on the same day of the same month as did the term which it succeeds. Each member shall hold office from the date of ~~his~~ the member's appointment until the end of the term for which ~~he~~ the member was appointed. The governor shall appoint a member to fill a vacancy in the manner prescribed for filling the position in which the vacancy occurs. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ a successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Members of the board may be removed by the governor for malfeasance, misfeasance, or nonfeasance after an adjudication hearing pursuant to Chapter 119. of the Revised Code. Members may not be appointed to a second term unless a period of five years has passed since the expiration of the first term, except that members appointed for less than a five-year term or appointed to fill an unexpired term may be appointed for one full term of five years immediately following the end of the term for which ~~he~~ the member was first appointed.

Three members of the board shall be dietitians who have been actively engaged in the practice of dietetics in the state for at least five years immediately preceding their appointment; one member shall be an educator with a doctoral degree who holds a regular faculty appointment in a program that prepares students to meet the requirements of division (A)(5) of section

4759.06 of the Revised Code; and one member shall be a member of the general public who is not and never has been a dietitian, is not a member of the immediate family of a dietitian, does not have a financial interest in the provision of goods or services to dietitians, and is not engaged in any activity related to the practice of dietetics.

Each member of the board shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day, or portion thereof, ~~he is~~ actually engaged in the discharge of ~~his~~ official duties, and shall be reimbursed for actual and necessary expenses incurred in the performance of those duties.

Sec. 4759.05. The Ohio board of dietetics shall:

(A) Adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code to carry out the provisions of this chapter, including rules governing the following:

(1) Selection and approval of a dietitian licensure examination offered by the commission on dietetic registration or any other examination;

(2) The examination of applicants for licensure as a dietitian, to be held at least twice annually, as required under division (A) of section 4759.06 of the Revised Code;

(3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least equivalent to the requirements adopted by the commission on dietetic registration;

(4) Requirements for a person holding a limited permit under division (F) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit;

(5) Requirements for a licensed dietitian who places a license in inactive status under division (G) of section 4759.06 of the Revised Code, including a procedure for changing inactive status to active status;

(6) Continuing education requirements for renewal of a license, except that the board may adopt rules to waive the requirements for a person who is unable to meet the requirements due to illness or other reasons. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration.

(7) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure;

(8) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with those standards of professional responsibility and practice adopted by the ~~American dietetic association~~ academy of nutrition and dietetics;

(9) Formulation of a written application form for licensure or license renewal that includes the statement that any applicant who knowingly makes a false statement on the application is guilty of a misdemeanor of the first degree under section 2921.13 of the Revised Code;

(10) Procedures for license renewal;

(11) Establishing a time period after the notification of a violation of section 4759.02 of the Revised Code, by which the person notified must request a hearing by the board under section 4759.09 of the Revised Code;

(12) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.

(B) Investigate alleged violations of sections 4759.02 to 4759.10 of the Revised Code. In making its investigations, the board may issue subpoenas, examine witnesses, and administer oaths.

(C) Adopt a seal;

(D) Conduct meetings and keep records as are necessary to carry out the provisions of this chapter;

(E) Publish, and make available to the public, upon request and for a fee not to exceed the actual cost of printing and mailing, the board's rules and requirements for licensure adopted under division (A) of this section and a record of all persons licensed under section 4759.06 of the Revised Code.

Sec. 4759.06. (A) The Ohio board of dietetics shall issue or renew a license to practice dietetics to an applicant who:

(1) Has satisfactorily completed an application for licensure in accordance with division (A) of section 4759.05 of the Revised Code;

(2) Has paid the fee required under division (A) of section 4759.08 of the Revised Code;

(3) Is a resident of the state or performs or plans to perform dietetic services within the state;

(4) Is of good moral character;

(5) Has received a baccalaureate or higher degree from an institution of higher education that is approved by the board or a regional accreditation agency that is recognized by the council on postsecondary accreditation, and has completed a program consistent with the academic standards for dietitians established by the ~~American dietetic association~~ academy of nutrition and dietetics;

(6) Has successfully completed a pre-professional dietetic experience approved by the ~~American dietetic association~~ academy of nutrition and dietetics, or experience approved by the board under division (A)(3) of section 4759.05 of the Revised Code;

(7) Has passed the examination approved by the board under division

(A)(1) of section 4759.05 of the Revised Code;

(8) Is an applicant for renewal of a license, and has fulfilled the continuing education requirements adopted under division (A)(6) of section 4759.05 of the Revised Code.

(B) The board shall waive the requirements of divisions (A)(5), (6), and (7) of this section and any rules adopted under division (A)(7) of section 4759.05 of the Revised Code if the applicant presents satisfactory evidence to the board of current registration as a registered dietitian with the commission on dietetic registration.

(C) The board shall waive the requirements of division (A)(7) of this section if the application for renewal is made within two years after the date of license expiration.

(D) The board may waive the requirements of division (A)(5), (6), or (7) of this section or any rules adopted under division (A)(7) of section 4759.05 of the Revised Code, if the applicant presents satisfactory evidence of education, experience, or passing an examination in another state or a foreign country, that the board considers the equivalent of the requirements stated in those divisions or rules.

(E) The board shall issue an initial license to practice dietetics to an applicant who meets the requirements of division (A) of this section. An initial license shall be valid from the date of issuance through the thirtieth day of June following issuance of the license. Each subsequent license shall be valid from the first day of July through the thirtieth day of June. The board shall renew the license of an applicant who is licensed to practice dietetics and who meets the continuing education requirements of division (A)(6) of section 4759.05 of the Revised Code. The renewal shall be pursuant to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

(F) The board may grant a limited permit to a person who has completed the education and pre-professional requirements of divisions (A)(5) and (6) of this section and who presents evidence to the board of having applied to take the examination approved by the board under division (A)(1) of section 4759.05 of the Revised Code. A person holding a limited permit who has failed the examination shall practice only under the direct supervision of a licensed dietitian.

(G) A licensed dietitian may place the license in inactive status.

Sec. 4759.10. Sections 4759.01 to 4759.09 of the Revised Code do not apply to any of the following:

(A) A person licensed under Chapters 4701. to 4755. of the Revised Code who is acting within the scope of the person's profession, provided

that the person complies with division (B) of section 4759.02 of the Revised Code;

(B) A person who is a graduate of an associate degree program approved by the ~~American dietetic association~~ academy of nutrition and dietetics or the Ohio board of dietetics who is working as a dietetic technician under the supervision of a dietitian licensed under section 4759.06 of the Revised Code or registered by the commission on dietetic registration, except that the person is subject to division (B) of section 4759.02 of the Revised Code if the person uses a title other than "dietetic technician";

(C) A person who practices dietetics related to employment in the armed forces, veteran's administration, or the public health service of the United States;

(D) Persons employed by a nonprofit agency approved by the board or by a federal, state, municipal or county government, or by any other political subdivision, elementary or secondary school, or an institution of higher education approved by the board or by a regional agency recognized by the council on postsecondary accreditation, who performs only nutritional education activities and such other nutritional activities as the board of dietetics, by rule, permits, provided the person does not violate division (B) of section 4759.02 of the Revised Code;

(E) A person who has completed a program meeting the academic standards set ~~by the American dietetic association~~ for dietitians by the academy of nutrition and dietetics, received a baccalaureate or higher degree from a school, college, or university approved by a regional accreditation agency recognized by the council on postsecondary accreditation, works under the supervision of a licensed dietitian or registered dietitian, and does not violate division (B) of section 4759.02 of the Revised Code;

(F) A person when acting, under the direction and supervision of a person licensed under Chapters 4701. to 4755. of the Revised Code, in the execution of a plan of treatment authorized by the licensed person, provided the person complies with division (B) of section 4759.02 of the Revised Code;

(G) The free dissemination of literature in the state;

(H) Provided that the persons involved in the sale, promotion, or explanation of the sale of food, food materials, or dietary supplements do not violate division (B) of section 4759.02 of the Revised Code, the sale of food, food materials, or dietary supplements and the marketing and distribution of food, food materials, or dietary supplements and the promotion or explanation of the use of food, food materials, or dietary



supplements provided that the promotion or explanation does not violate Chapter 1345. of the Revised Code;

(I) A person who offers dietary supplements for sale and who makes the following statements about the product if the statements are consistent with the dietary supplement's label or labeling:

(1) Claim a benefit related to a classical nutrient deficiency disease and disclose the prevalence of the disease in the United States;

(2) Describe the role of a nutrient or dietary ingredient intended to affect the structure or function of the human body;

(3) Characterize the documented mechanism by which a nutrient or dietary ingredient acts to maintain the structure or function of the human body;

(4) Describe general well-being from the consumption of a nutrient or dietary ingredient.

(J) Provided that the persons involved in presenting a general program of instruction for weight control do not violate division (B) of section 4759.02 of the Revised Code, a general program of instruction for weight control approved in writing by a licensed dietitian, a physician licensed under Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine or surgery, a person licensed in another state that the board considers to have substantially equivalent licensure requirements as this state, or a registered dietitian;

(K) The continued practice of dietetics at a hospital by a person employed at that same hospital to practice dietetics for the twenty years immediately prior to July 1, 1987, so long as the person works under the supervision of a dietitian licensed under section 4759.06 of the Revised Code and does not violate division (B) of section 4759.02 of the Revised Code. This division does not apply to any person who has held a license issued under this chapter to practice dietetics. As used in this division, "hospital" has the same meaning as in section 3727.01 of the Revised Code.

Sec. 5111.222. (A) As used in this section, "low resource utilization resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid reimbursement rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data.

(B) Except as otherwise provided by sections 5111.20 to 5111.331 of the Revised Code and by division ~~(B)~~(C) of this section, the total rate that the department of job and family services shall agree to pay for a fiscal year to the provider of a nursing facility pursuant to a provider agreement shall

equal the sum of all of the following:

(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code;

(2) The rate for ancillary and support costs determined for the nursing facility's ancillary and support cost peer group under section 5111.24 of the Revised Code;

(3) The rate for tax costs determined for the nursing facility under section 5111.242 of the Revised Code;

(4) The quality incentive payment paid to the nursing facility under section 5111.244 of the Revised Code;

(5) If the nursing facility qualifies as a critical access nursing facility, the critical access incentive payment paid to the nursing facility under section 5111.246 of the Revised Code;

(6) The rate for capital costs determined for the nursing facility's capital costs peer group under section 5111.25 of the Revised Code.

~~(B) The department shall adjust the rates otherwise determined under division (A) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that establishes factors by which the rates are to be adjusted.~~

(C) The total rate determined under division (B) of this section shall not be paid for nursing facility services provided to low resource utilization residents. Instead, the total rate for nursing facility services that a nursing facility provides to low resource utilization residents shall be one hundred thirty dollars per medicaid day.

(D) In addition to paying a nursing facility provider the nursing facility's total rate determined for the nursing facility under division (A)(B) or (C) of this section for a fiscal year, the department shall pay the provider a quality bonus under section 5111.245 of the Revised Code for that fiscal year if the provider's nursing facility is a qualifying nursing facility, as defined in that section, for that fiscal year. The quality bonus shall not be part of the total rate.

Sec. 5111.231. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this

section of each peer groups' cost per case-mix unit using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such costs.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semiannually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(D)(1) The department shall determine a cost per case-mix unit for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made ~~by this act~~ to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, the cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's cost per case-mix unit, the department shall do all of the following:

(a) Determine the cost per case-mix unit for each nursing facility in the peer group for the applicable calendar year by dividing each facility's desk-reviewed, actual, allowable, per diem direct care costs for the

applicable calendar year by the facility's annual average case-mix score determined under section 5111.232 of the Revised Code for the applicable calendar year;

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (D)(1)(a) of this section;

(c) Calculate the amount that is two per cent above the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section;

(d) Using the index specified in division (D)(3) of this section, multiply the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year by the amount calculated under division (D)(1)(c) of this section;

(e) Until the first rebasing occurs, add one dollar and eighty-eight cents to the amount calculated under division (D)(1)(d) of this section;

(f) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(e) of this section by five and eight hundredths per cent.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose cost per case-mix unit is more than one standard deviation from the mean cost per case-mix unit for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The following index shall be used for the purpose of the calculation made under division (D)(1)(d) of this section:

(a) Until the first rebasing occurs, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;

(b) Effective with the first rebasing and except as provided in division (D)(3)(c) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;

(c) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(3)(b) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs.

(4) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The

department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

Sec. 5111.24. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for ancillary and support costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for ancillary and support costs determined for the nursing facility's peer group under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for ancillary and support costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize,

Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) The department shall determine the rate for ancillary and support costs for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made ~~by this act~~ to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, the rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for ancillary and support costs, the department shall do all of the following:

(a) Subject to division (D)(2) of this section, determine the rate for ancillary and support costs for each nursing facility in the peer group for the applicable calendar year by using the greater of the nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been ninety per cent;

(b) Subject to division (D)(3) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section;

(c) Multiply the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) Until the first rebasing occurs, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics, as that index existed on July 1, 2005;

(ii) Effective with the first rebasing and except as provided in division (D)(1)(c)(iii) of this section, the consumer price index for all items for all

urban consumers for the midwest region, published by the United States bureau of labor statistics;

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(c)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(d) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(c) of this section by five and eight hundredths per cent.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(3) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(4) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. 5111.242. (A) As used in this section, ~~"applicable:~~

(1) "Applicable calendar year" means the following:

~~(1)(a)~~ (a) For the purpose of the department of job and family services' initial determination under this section of nursing facilities' rate for tax costs, calendar year 2003;

~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent determinations under division (C) of this section of nursing facilities' rate for tax costs rebasings~~, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (C) of this section of each nursing facility's rate for tax costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of job and family services shall pay a provider for

each of the provider's eligible nursing facilities a per resident per day rate for tax costs determined under division (C) of this section.

(C) ~~At least once every ten years, the~~ The department shall determine the rate for tax costs for each nursing facility. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Sub. H.B. 303 of the 129th general assembly, the rate for tax costs determined under this division for a nursing facility shall be used for subsequent years until the department ~~redetermines it~~ conducts a rebasing. To determine a nursing facility's rate for tax costs and except as provided in division (D) of this section, the department shall ~~divide~~ do both of the following:

(1) Divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for the applicable calendar year by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during the applicable calendar year;

(2) Until the first rebasing occurs, increase the amount calculated under division (C)(1) of this section by five and eight hundredths per cent.

(D) If a nursing facility had a credit regarding its real estate taxes reflected on its cost report for calendar year 2003, the department shall determine, as follows, its rate for tax costs for the period beginning on July 1, 2010, and ending on the first day of the fiscal year for which the department first ~~redetermines all nursing facilities' rate for tax costs under division (C) of this section by dividing~~ conducts a rebasing:

(1) Divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for calendar year 2004 by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during calendar year 2004;

(2) Until the first rebasing occurs, increase the amount calculated under division (D)(1) of this section by five and eight hundredths per cent.

Sec. 5111.246. (A) Each fiscal year, the department of job and family services shall pay a critical access incentive payment to the provider of each nursing facility that qualifies as a critical access nursing facility. To qualify as a critical access nursing facility for a fiscal year, a nursing facility must meet all of the following requirements:

(1) The nursing facility must be located in an area that, on December 31, 2011, was designated an empowerment zone under section 1391 of the "Internal Revenue Code of 1986," 107 Stat. 543, 26 U.S.C. 1391, as amended.

(2) The nursing facility must have an occupancy rate of at least eighty-five per cent as of the last day of the calendar year preceding the



fiscal year.

(3) The nursing facility must have a medicaid utilization rate of at least sixty-five per cent as of the last day of the calendar year preceding the fiscal year.

(B) A critical access nursing facility's critical access incentive payment for a fiscal year shall equal five per cent of the portion of the nursing facility's total rate for the fiscal year that is the sum of the rates and payment identified in divisions ~~(A)~~(B)(1) to (4) and (6) of section 5111.222 of the Revised Code.

Sec. 5111.25. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's rate for capital costs, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for capital costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for capital costs determined for the nursing facility's peer group under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for capital costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those

counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) The department shall determine the rate for capital costs for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made ~~by this act~~ to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, the rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. ~~A~~ To determine a peer group's rate for capital costs shall be, the department shall do both of the following:

(a) Determine the rate for capital costs ~~determined~~ for the nursing facility in the peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year;

(b) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(a) of this section by five and eight hundredths per cent. ~~In identifying that~~

(2) To identify the nursing facility in a peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year, the department shall do both of the following:

(a) Subject to division (D)~~(2)~~(3) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent;

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard

deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

~~(2)~~(3) For the purpose of determining a nursing facility's occupancy rate under division (D)~~(4)~~(2)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

~~(3)~~(4) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

(E) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in capital costs unless that part of the payment under sections 5111.20 to 5111.331 of the Revised Code is used to reimburse the government agency.

(F) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) Except as provided in division (F)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.

(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII, except as otherwise provided in sections 5111.20 to 5111.331 of the Revised Code.

(3) Except as provided in division (F)(4) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993,

there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (F)(3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (F)(4)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department of job and family services determines that the transfer is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable cost of ownership was determined most recently under division (G)(9) of this section.

(G) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (B) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable

capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to division (B) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to division (B) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (G)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be, for purposes of calculating the annual amount under division (G)(2), (3), (4), or (6) of this section, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (G)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (G)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (G)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (G)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (G)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department of job and family services determines that the lease is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (G)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable capital costs were determined most recently under division (G)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of the Revised Code:

(1) "Adult" means an individual at least eighteen years of age.

(2) "Authorized representative" means the following:

(a) In the case of a consumer who is a minor, the consumer's parent, custodian, or guardian;

(b) In the case of a consumer who is an adult, an individual selected by the consumer pursuant to section 5111.8810 of the Revised Code to act on

the consumer's behalf for purposes regarding home care attendant services.

(3) "Authorizing health care professional" means a health care professional who, pursuant to section 5111.887 of the Revised Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both.

(4) "Consumer" means an individual to whom all of the following apply:

(a) The individual is enrolled in a participating medicaid waiver component.

(b) The individual has a medically determinable physical impairment to which both of the following apply:

(i) It is expected to last for a continuous period of not less than twelve months.

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.

(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.

(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.

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

(6) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.

(7) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.

(8) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(9) "Health care professional" means a physician or registered nurse.

(10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.

(11) "Home care attendant services" means all of the following as provided by a home care attendant:

(a) Personal care aide services;

(b) Assistance with the self-administration of medication;



(c) Assistance with nursing tasks.

(12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.

(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.

(15) "Minor" means an individual under eighteen years of age.

(16) "Participating medicaid waiver component" means both of the following:

(a) The Ohio home care program created under section 5111.861 of the Revised Code;

(b) The Ohio transitions II aging carve-out program created under section 5111.863 of the Revised Code.

(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. "Registered nurse" includes an advanced practice registered nurse, as defined in section 4723.01 of the Revised Code.

(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B) The director of job and family services may submit requests to the United States secretary of health and human services to amend the federal medicaid waivers authorizing the participating medicaid waiver components to have those components cover home care attendant services in accordance with sections 5111.88 to 5111.8810 of the Revised Code and rules adopted under section 5111.8811 of the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 of the Revised Code, those sections shall be implemented regarding a participating medicaid waiver component only if the secretary approves a waiver amendment for the component.

Sec. 5111.981. (A) As used in this section and section 5111.982 of the Revised Code:

"Dual eligible individual" has the same meaning as in ~~section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010)~~ section 1915(h)(2)(B), 42 U.S.C. 1396n(h)(2)(B).

"Medicare ~~program~~" means the program created ~~under Title XVIII of in~~ the "Social Security Act," ~~79 Stat. 286 (1965)~~ Title XVIII, 42 U.S.C. 1395

et seq., as amended.

(B) Subject to division (C) of this section, the medical assistance director of job and family services may implement a demonstration project called the integrated care delivery system to test and evaluate the integration of the care that dual eligible individuals receive under ~~the~~ medicare and medicaid ~~programs~~. No provision of Title LI of the Revised Code applies to the ~~demonstration project~~ integrated care delivery system if that provision implements or incorporates a provision of federal law governing ~~the~~ medicaid ~~program~~ and that provision of federal law does not apply to the ~~demonstration project system~~.

(C) Before implementing the ~~demonstration project~~ integrated care delivery system under division (B) of this section, the director shall obtain the approval of the United States secretary of health and human services in the form of a federal medicaid waiver, medicaid state plan amendment, or demonstration grant. The director is required to seek the federal approval only if the director seeks to implement the ~~demonstration project~~ integrated care delivery system. The director shall implement the ~~demonstration project~~ integrated care delivery system in accordance with the terms of the federal approval, including the terms regarding the duration of the ~~demonstration project system~~.

Sec. 5111.982. (A) As used in this section:

"Covered skilled nursing facility services" has the same meaning as in the "Social Security Act," section 1888(e)(2)(A), 42 U.S.C. 1395yy(e)(2)(A).

"Current medicare fee-for-service rate" means the fee-for-service rate in effect for a covered skilled nursing facility service under medicare at the time the service is provided.

"Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).

(B) Except as provided in division (C) of this section, a managed care organization shall pay a skilled nursing facility at least the current medicare fee-for-service rate, without deduction for any coinsurance, for covered skilled nursing facility services that the skilled nursing facility provides to a dual eligible individual if the managed care organization is responsible for the payment under the terms of a contract that the managed care organization, medical assistance director, and United States secretary of health and human services jointly enter into under the integrated care delivery system authorized by section 5111.981 of the Revised Code.

(C) A managed care organization is required to pay the rate specified in division (B) of this section for covered skilled nursing facility services only

if all of the following apply:

(1) The United States secretary agrees to the payment rate as part of the contract that the managed care organization, medical assistance director, and United States secretary jointly enter into under the integrated care delivery system;

(2) The managed care organization receives a federal capitation payment that is an actuarially sufficient amount for the costs that the managed care organization incurs in paying the rate;

(3) No state funds are used for any part of the costs that the managed care organization incurs in paying the rate;

(4) The integrated care delivery system provides for dual eligible individuals to receive the covered skilled nursing facility services as part of the system.

Sec. 5119.22. (A) As used in this section and section 5119.221 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 agency" means a community mental health agency as defined in division (H) of section 5122.01 of the Revised Code.

(6) "Community mental health services" means any of the services listed in section 340.09 of the Revised Code.

(7) "Operator" means the person that is responsible for the administration and management of a residential facility.

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

(a) Assisting residents with activities of daily living;

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

(c) 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 this section.

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

(9) "Residential facility" means a publicly or privately operated home or facility that provides one of the following:

(a) Accommodations, supervision, personal care services, and community mental health services for one or more of the following unrelated persons who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner:

(i) Adults with mental illness;

(ii) Persons of any age with severe mental disabilities;

(iii) Children with serious emotional disturbances or in need of mental health services.

(b) Accommodations and personal care services for only one or two unrelated adults; accommodations, supervision, and personal care services for three to sixteen unrelated adults; or accommodations, supervision, and personal care services for one or two of the following unrelated persons:

(i) Persons of any age with mental illness who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;

(ii) Persons of any age with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.

(c) Room and board for five or more of the following unrelated persons:

(i) Adults with mental illness who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;

(ii) Adults with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.

(10) "Residential facility" does not include any of the following:

(a) A hospital subject to licensure under section 5119.20 of the Revised Code;

(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;

(c) An institution or association subject to certification under section

5103.03 of the Revised Code;

(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;

(e) 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;

(f) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;

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

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

~~(h)~~(i) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

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

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

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

(12) "Supervision" means any of the following:

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

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

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

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

(B) Nothing in division (A)(9) of this section shall be construed to permit personal care services to be imposed on a resident who is capable of

performing the activity in question without assistance.

(C) Except in the case of a residential facility described in division (A)(9)(a) of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, but may do any of the following:

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

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

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

(D)(1) Except as provided in division (D)(2) of this section, a person operating or seeking to operate a residential facility shall apply for licensure of the facility to the department of mental health. The application shall be submitted by the operator. When applying for the license, the applicant shall pay to the department the application fee specified in rules adopted under division (L) of this section. The fee is nonrefundable.

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

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

(a) A period of not less than two years has elapsed since the date the director of mental health issued the order revoking or refusing to renew the facility's license.

(b) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to

be free from abuse, neglect, or exploitation.

(E)(1) Any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any residential district or zone, including any single-family residential district or zone of any political subdivision. Such facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(2) Any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit development districts as defined in section 519.021 of the Revised Code may exclude such facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(a) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(b) Require compliance with yard, parking, and sign regulation.

(3) Divisions (E)(1) and (2) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under this section in a single-family residential district or zone under conditions established by the political subdivision.

(4)(a) Notwithstanding divisions (E)(1) and (2) of this section and except as provided in division (E)(4)(b) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of this section.

(b) Division (E)(4)(a) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on ~~the effective date of this section~~ September 10, 2012, and that meet the criteria specified in division

(A)(9)(b) of this section. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of this section that are not existing and operating on ~~the effective date of this section~~ September 10, 2012.

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

The department may issue full, probationary, and interim licenses. A full license shall expire two years after the date of issuance, a probationary license shall expire in a shorter period of time as specified in rules adopted by the director of mental health under division (L) of this section, and an interim license shall expire ninety days after the date of issuance. A license may be renewed in accordance with rules adopted by the director under division (L) of this section. The renewal application shall be submitted by the operator. When applying for renewal of a license, the applicant shall pay to the department the renewal fee specified in rules adopted under division (L) of this section. The fee is nonrefundable.

(2) The department may issue an order suspending the admission of residents to the facility or refuse to issue or renew and may revoke a license if it finds the facility is not in compliance with rules adopted by the director pursuant to division (L) of this section or if any facility operated by the applicant or licensee has been cited for repeated violations of statutes or rules during the period of previous licenses. Proceedings initiated to deny applications for full or probationary licenses or to revoke such licenses are governed by Chapter 119. of the Revised Code.

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

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

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

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



(H)(1) The department of mental health may conduct an inspection of a residential facility as follows:

- (a) Prior to issuance of a license for the facility;
- (b) Prior to renewal of the license;
- (c) To determine whether the facility has completed a plan of correction required pursuant to division (H)(2) of this section and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;
- (d) Upon complaint by any individual or agency;
- (e) At any time the director considers an inspection to be necessary in order to determine whether the facility is in compliance with this section and rules adopted pursuant to this section.

(2) In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility and its personnel, activities, and services. The department shall have 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, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

(I) No person shall do any of the following:

- (1) Operate a residential facility unless the facility holds a valid license;
- (2) Violate any of the conditions of licensure after having been granted a license;
- (3) Interfere with a state or local official's inspection or investigation of a residential facility;
- (4) Violate any of the provisions of this section or any rules adopted pursuant to this section.

(J) The following may enter a residential facility at any time:

- (1) Employees designated by the director of mental health;
- (2) Employees of an ADAMHS board under either of the following circumstances:
  - (a) When a resident of the facility is receiving services from a community mental health agency under contract with that ADAMHS board or another ADAMHS board;
  - (b) When authorized by section 340.05 of the Revised Code.
- (3) Employees of a community mental health agency under either of the

following circumstances:

(a) When the agency has a client residing in the facility;

(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract.

(4) Representatives of the state long-term care ombudsperson 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 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 criminal records checks for prospective operators, staff, and other individuals who, if employed by a residential facility, would have unsupervised access to facility residents;

(4) The fee to be paid when applying for a new residential facility license or renewing the license;

(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;

(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;

(7) Measures to be taken by residential facilities relative to residents' medication;

(8) Requirements relating to preparation of special diets;

(9) The maximum number of residents who may be served in a

residential facility;

(10) The rights of residents of residential facilities and procedures to protect such rights;

(11) Procedures for obtaining an affiliation agreement approved by the board between a residential facility and a community mental health agency;

(12) Standards and procedures under which the director may waive the requirements of any of the rules adopted.

(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.

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

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

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

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

(O) The director may fine a person for violating division (I) of this section. The fine shall be five hundred dollars for a first offense; for each subsequent offense, the fine shall be one thousand dollars. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 5120.55. (A) As used in this section, "licensed health professional" means any or all of the following:

(1) A dentist who holds a current, valid license issued under Chapter 4715. of the Revised Code to practice dentistry;

(2) A licensed practical nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a licensed practical nurse;

(3) An optometrist who holds a current, valid certificate of licensure issued under Chapter 4725. of the Revised Code that authorizes the holder to engage in the practice of optometry;

(4) A physician who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or ~~podiatry~~ podiatric medicine and surgery;

(5) A psychologist who holds a current, valid license issued under Chapter 4732. of the Revised Code that authorizes the practice of psychology as a licensed psychologist;

(6) A registered nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a registered nurse ~~regardless of whether the, including such a nurse who is~~ also authorized to practice as an advanced practice registered nurse as defined in section 4723.01 of the Revised Code.

(B)(1) The department of rehabilitation and correction may establish a recruitment program under which the department, by means of a contract entered into under division (C) of this section, agrees to repay all or part of the principal and interest of a government or other educational loan incurred by a licensed health professional who agrees to provide services to inmates of correctional institutions under the department's administration.

(2)(a) For a physician to be eligible to participate in the program, the physician must have attended a school that was, during the time of attendance, a medical school or osteopathic medical school in this country accredited by the liaison committee on medical education or the American osteopathic association, a college of podiatry in this country recognized as being in good standing under section 4731.53 of the Revised Code, or a medical school, osteopathic medical school, or college of podiatry located outside this country that was acknowledged by the world health organization and verified by a member state of that organization as operating within that state's jurisdiction.

(b) For a nurse to be eligible to participate in the program, the nurse must have attended a school that was, during the time of attendance, a nursing school in this country accredited by the commission on collegiate

nursing education or the national league for nursing accrediting commission or a nursing school located outside this country that was acknowledged by the world health organization and verified by a member state of that organization as operating within that state's jurisdiction.

(c) For a dentist to be eligible to participate in the program, the dentist must have attended a school that was, during the time of attendance, a dental college that enabled the dentist to meet the requirements specified in section 4715.10 of the Revised Code to be granted a license to practice dentistry.

(d) For an optometrist to be eligible to participate in the program, the optometrist must have attended a school of optometry that was, during the time of attendance, approved by the state board of optometry.

(e) For a psychologist to be eligible to participate in the program, the psychologist must have attended an educational institution that, during the time of attendance, maintained a specific degree program recognized by the state board of psychology as acceptable for fulfilling the requirement of division (B)(4) of section 4732.10 of the Revised Code.

(C) The department shall enter into a contract with each licensed health professional it recruits under this section. Each contract shall include at least the following terms:

(1) The licensed health professional agrees to provide a specified scope of medical, osteopathic medical, podiatric, optometric, psychological, nursing, or dental services to inmates of one or more specified state correctional institutions for a specified number of hours per week for a specified number of years.

(2) The department agrees to repay all or a specified portion of the principal and interest of a government or other educational loan taken by the licensed health professional for the following expenses to attend, for up to a maximum of four years, a school that qualifies the licensed health professional to participate in the program:

(a) Tuition;

(b) Other educational expenses for specific purposes, including fees, books, and laboratory expenses, in amounts determined to be reasonable in accordance with rules adopted under division (D) of this section;

(c) Room and board, in an amount determined to be reasonable in accordance with rules adopted under division (D) of this section.

(3) The licensed health professional agrees to pay the department a specified amount, which shall be no less than the amount already paid by the department pursuant to its agreement, as damages if the licensed health professional fails to complete the service obligation agreed to or fails to comply with other specified terms of the contract. The contract may vary the

amount of damages based on the portion of the service obligation that remains uncompleted.

(4) Other terms agreed upon by the parties.

The licensed health professional's lending institution or the Ohio board of regents, may be a party to the contract. The contract may include an assignment to the department of the licensed health professional's duty to repay the principal and interest of the loan.

(D) If the department elects to implement the recruitment program, it shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Criteria for designating institutions for which licensed health professionals will be recruited;

(2) Criteria for selecting licensed health professionals for participation in the program;

(3) Criteria for determining the portion of a loan which the department will agree to repay;

(4) Criteria for determining reasonable amounts of the expenses described in divisions (C)(2)(b) and (c) of this section;

(5) Procedures for monitoring compliance by a licensed health professional with the terms of the contract the licensed health professional enters into under this section;

(6) Any other criteria or procedures necessary to implement the program.

SECTION 2. That existing sections 109.57, 1337.11, 2133.01, 2305.113, 2305.234, 2317.54, 2711.22, 3701.881, 3701.92, 3701.923, 3701.924, 3701.925, 3701.926, 3701.927, 3701.928, 3701.929, 3712.01, 3712.03, 3712.09, 3712.99, 3721.01, 3793.11, 3795.01, 3963.01, 4503.44, 4719.01, 4723.01, 4723.03, 4723.06, 4723.063, 4723.07, 4723.08, 4723.09, 4723.17, 4723.171, 4723.24, 4723.271, 4723.28, 4723.32, 4723.34, 4723.35, 4723.41, 4723.42, 4723.43, 4723.431, 4723.44, 4723.48, 4723.482, 4723.485, 4723.487, 4723.50, 4723.61, 4723.64, 4723.65, 4723.651, 4723.652, 4723.66, 4723.67, 4723.68, 4723.69, 4723.71, 4723.72, 4723.73, 4723.74, 4723.75, 4723.751, 4723.76, 4723.77, 4723.79, 4723.83, 4723.84, 4723.87, 4723.88, 4723.99, 4752.02, 4759.01, 4759.03, 4759.05, 4759.06, 4759.10, 5111.222, 5111.231, 5111.24, 5111.242, 5111.246, 5111.25, 5111.88, 5111.981, 5119.22, and 5120.55 and sections 4723.483, 4723.62, 4723.621, 4723.63, and 4723.78 of the Revised Code are hereby repealed.

SECTION 3. That Section 3.19 of Am. Sub. H.B. 95 of the 125th General Assembly be amended to read as follows:

Sec. 3.19. Section 4723.063 of the Revised Code is hereby repealed, effective December 31, ~~2013~~ 2023.

SECTION 4. That existing Section 3.19 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby repealed.

SECTION 5. Sections 1 to 4 of this act take effect ninety days after the effective date of this act, except as follows:

(A) Section 3793.11 of the Revised Code, as amended by this act, takes effect at the earliest time permitted by law;

(B) Sections 5111.22, 5111.231, 5111.24, 5111.242, 5111.246, and 5111.25 of the Revised Code, as amended by this act, take effect July 1, 2013.

SECTION 6. That the version of section 109.57 of the Revised Code that is scheduled to take effect January 1, 2014, be amended to read as follows:

Sec. 109.57. (A)(1) The superintendent of the bureau of criminal identification and investigation shall procure from wherever procurable and file for record photographs, pictures, descriptions, fingerprints, measurements, and other information that may be pertinent of all persons who have been convicted of committing within this state a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of all children under eighteen years of age who have been adjudicated delinquent children for committing within this state an act that would be a felony or an offense of violence if committed by an adult or who have been convicted of or pleaded guilty to committing within this state a felony or an offense of violence, and of all well-known and habitual criminals. The person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or

any misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence who is not in any other category of child specified in this division, if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

(2) Every clerk of a court of record in this state, other than the supreme court or a court of appeals, shall send to the superintendent of the bureau a weekly report containing a summary of each case involving a felony, involving any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, involving a misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or involving an adjudication in a case in which a child under eighteen years of age was alleged 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 clerk of the court of common pleas shall include in the report and summary the clerk sends under this division all information described in divisions (A)(2)(a) to (f) of this section regarding a case before the court of appeals that is served by that clerk. The summary shall be written on the standard forms furnished by the superintendent pursuant to division (B) of this section and shall include the following information:

- (a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;
- (b) The style and number of the case;
- (c) The date of arrest, offense, summons, or arraignment;



(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;

(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;

(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.

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.

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code and of all children under eighteen years of age arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence if committed by an adult. The superintendent also shall file for record the fingerprint impressions of all persons confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution for the violation of state laws and of all children under eighteen years of age who are confined in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution or in any facility for delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, and any other information that the superintendent may receive from law enforcement

officials of the state and its political subdivisions.

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

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

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

(C)(1) The superintendent may operate a center for electronic, automated, or other data processing for the storage and retrieval of information, data, and statistics pertaining to criminals and to children under eighteen years of age who are adjudicated delinquent children for committing an act that would be a felony or an offense of violence if committed by an adult, criminal activity, crime prevention, law enforcement, and criminal justice, and may establish and operate a statewide communications network to be known as the Ohio law enforcement gateway to gather and disseminate information, data, and statistics for the use of law enforcement agencies and for other uses specified in this division. The superintendent may gather, store, retrieve, and disseminate information, data, and statistics that pertain to children who are under eighteen years of age and that are gathered pursuant to sections 109.57 to 109.61 of the Revised Code together with information, data, and statistics that pertain to adults and that are gathered pursuant to those sections.

(2) The superintendent or the superintendent's designee shall gather information of the nature described in division (C)(1) of this section that

pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for inclusion in the state registry of sex offenders and child-victim offenders maintained pursuant to division (A)(1) of section 2950.13 of the Revised Code and in the internet database operated pursuant to division (A)(13) of that section and for possible inclusion in the internet database operated pursuant to division (A)(11) of that section.

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

(4) The attorney general may adopt rules under Chapter 119. of the Revised Code establishing guidelines for the operation of and participation in the Ohio law enforcement gateway. The rules may include criteria for granting and restricting access to information gathered and disseminated through the Ohio law enforcement gateway. The attorney general shall permit the state medical board and board of nursing to access and view, but not alter, information gathered and disseminated through the Ohio law enforcement gateway.

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

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

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

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

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

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

(E)(1) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code and subject to division (E)(2) of this section, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed or described in division (A)(1), (2), or (3) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.

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

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

(b) The adjudication or conviction was for a sexually oriented offense, the juvenile court was required to classify the child a juvenile offender registrant for that offense under section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that classification has not been removed.

(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, 5104.012, 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 the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, subject to division (E)(2) of this section, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date that the superintendent receives a request, subject to division (E)(2) of this section, the superintendent shall send to the board, entity, or person a report of any information that the superintendent determines exists, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, subject to division (E)(2) of this section, shall send the board, entity, or person a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

(b) When a board of education or a registered private provider is required to receive information under this section as a prerequisite to employment of an individual pursuant to division (C) of section 3310.58 or section 3319.39 of the Revised Code, it may accept a certified copy of records that were issued by the bureau of criminal identification and investigation and that are presented by an individual applying for

employment with the district in lieu of requesting that information itself. In such a case, the board shall accept the certified copy issued by the bureau in order to make a photocopy of it for that individual's employment application documents and shall return the certified copy to the individual. In a case of that nature, a district or provider only shall accept a certified copy of records of that nature within one year after the date of their issuance by the bureau.

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

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

(4) When the superintendent of the bureau receives a request for information under section 3319.291 of the Revised Code, the superintendent shall proceed as if the request has been received from a school district board of education and shall comply with divisions (F)(2)(a) and (c) of this section.

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

(G) In addition to or in conjunction with any request that is required to be made under section 3701.881, 3712.09, or 3721.121 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an older adult or adult resident, the chief administrator of a home health agency, hospice care program, home licensed under Chapter 3721. of the Revised Code, or adult day-care program operated pursuant to rules adopted under section 3721.04 of the Revised Code may request that the superintendent of the bureau investigate

and determine, with respect to any individual who has applied after January 27, 1997, for employment in a position that does not involve providing direct care to an older adult or adult resident, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

In addition to or in conjunction with any request that is required to be made under section 173.27 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing ombudsperson services to residents of long-term care facilities or recipients of community-based long-term care services, the state long-term care ombudsperson, ombudsperson's designee, or director of health may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing such ombudsperson services, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

In addition to or in conjunction with any request that is required to be made under section 173.394 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to an individual, the chief administrator of a community-based long-term care agency may request that the superintendent investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care, whether the bureau has any information gathered under division (A) of this section that pertains to that applicant.

In addition to or in conjunction with any request that is required to be made under section 3712.09 of the Revised Code with respect to an individual who has applied for employment in a position that involves providing direct care to a pediatric respite care patient, the chief administrator of a pediatric respite care program may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in a position that does not involve providing direct care to a pediatric respite care patient, whether the bureau has any information gathered under division (A) of this section that pertains to that individual.

On receipt of a request under this division, the superintendent shall determine whether that information exists and, on request of the individual requesting information, shall also request from the federal bureau of investigation any criminal records it has pertaining to the applicant. The superintendent or the superintendent's designee also may request criminal

history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, subject to division (E)(2) of this section, the superintendent shall send to the requester a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the requester a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

(J) As used in this section:

(1) "Pediatric respite care program" and "pediatric care patient" have the same meanings as in section 3712.01 of the Revised Code.

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

~~(2)~~(3) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.

SECTION 7. That the existing version of section 109.57 of the Revised Code that is scheduled to take effect January 1, 2014, is hereby repealed.

SECTION 7A. Sections 5 and 6 of this act take effect January 1, 2014.

SECTION 8. The provisions of this act regarding the licensure of pediatric respite care programs, as provided in the amendment and enactment of sections 3712.01, 3712.03, 3712.031, 3712.041, 3712.051, 3712.061, 3712.09, and 3712.99 of the Revised Code, shall be known as "Sarah's Law."

SECTION 9. In the case of an application pending on the effective date of this section for a license to maintain methadone treatment, the requirement



of division (C)(6) of section 3793.11 of the Revised Code, as amended by this act, shall be applied by the Department of Alcohol and Drug Addiction Services in determining whether to issue the license. The Department may waive the requirement pursuant to division (D) of section 3793.11 of the Revised Code, as amended by this act.

SECTION 10. (A) Notwithstanding the provisions of section 4723.482 of the Revised Code specifying that the course of study in advanced pharmacology and related topics that must be completed as a condition of eligibility to receive a certificate to prescribe from the Board of Nursing is to consist of planned classroom and clinical instruction, the Board may accept instruction completed in another form, including instruction obtained through an internet-based program, as fulfillment of all or part of the requirement of division (B)(5)(d) of that section to complete instruction specific to schedule II controlled substances. To be accepted by the Board, the instruction obtained in another form shall meet all other standards established in rules adopted under section 4723.50 of the Revised Code regarding the required instruction specific to schedule II controlled substances.

(B) Division (A) of this section applies only in the case of an applicant who completed the required course of study prior to the effective date of this section and does not alter the requirement of division (B)(1) of section 4723.482 of the Revised Code that the course of study be completed not longer than three years before an application for a certificate to prescribe is filed.

SECTION 11. (A) As used in this section, "intermediate care facility for individuals with intellectual disabilities" and "ICF/IID" mean an intermediate care facility for the mentally retarded as defined in the "Social Security Act," section 1905(d), 42 U.S.C. 1396d(d).

(B) The Department of Developmental Disabilities may conduct or contract with another entity to conduct, for the first quarter of calendar year 2013, assessments of all residents of each ICF/IID, regardless of payment source, who are in the ICF/IID, or on hospital or therapeutic leave from the ICF/IID, on the day or days that the assessments are conducted at the ICF/IID.

(C) If assessments are conducted under division (B) of this section, the

Department shall do all of the following:

(1) In conducting the assessments, provide for both of the following:

(a) The resident assessment instrument prescribed in rules authorized by division (B) of section 5111.232 of the Revised Code to be used in accordance with an inter-rater reliable process;

(b) The assessments to be performed by individuals who meet the requirements to be qualified intellectual disability professionals, as specified in 42 C.F.R. 483.430(a).

(2) Use the data obtained from the assessments to determine each ICF/IID's case-mix score for the first quarter of calendar year 2013;

(3) For the purpose of determining each ICF/IID's fiscal year 2014 Medicaid rates for direct care costs and subject to divisions (C)(8) and (E) of this section, do both of the following:

(a) In determining costs per case-mix units and maximum costs per case-mix units for the purpose of division (B) of section 5111.23 of the Revised Code, use each ICF/IID's case-mix score determined under division (C)(2) of this section in place of the ICF/IID's average case-mix score for calendar year 2012;

(b) Instead of determining quarterly Medicaid rates for the direct care costs of each ICF/IID pursuant to division (D) of section 5111.23 of the Revised Code, determine, as follows, one Medicaid rate for the direct care costs of each ICF/IID to be paid for all of fiscal year 2014:

(i) Multiply the ICF/IID's case-mix score determined under division (C)(2) of this section by the lesser of the cost per case-mix unit determined for the ICF/IID pursuant to division (C)(3)(a) of this section or the maximum cost per case-mix unit determined for the ICF/IID's peer group pursuant to division (C)(3)(a) of this section;

(ii) Adjust the product determined under division (C)(3)(b)(i) of this section by the inflation rate estimated in accordance with division (B)(3) of section 5111.23 of the Revised Code.

(4) For the purpose of determining each ICF/IID's fiscal year 2015 Medicaid rates for direct care costs and subject to division (C)(8) of this section, use the following when determining, pursuant to the second paragraph of division (C) of section 5111.232 of the Revised Code, each ICF/IID's annual average case-mix score for calendar year 2013:

(a) For the first quarter of calendar year 2013, the ICF/IID's case-mix score determined under division (C)(2) of this section;

(b) For the last three quarters of calendar year 2013 and except as provided in division (D) of section 5111.232 of the Revised Code, the ICF/IID's case-mix scores determined by using the data the ICF/IID

provider compiles in accordance with the first paragraph of division (C) of section 5111.232 of the Revised Code.

(5) Notify each ICF/IID provider that the provider is permitted but not required to compile assessment data for the first quarter of calendar year 2013 pursuant to the first paragraph of division (C) of section 5111.232 of the Revised Code;

(6) After the assessments of all of an ICF/IID's residents are completed but not later than April 30, 2013, provide, or have the entity (if any) with which the Department contracts pursuant to division (B) of this section provide, the results of the assessments to the ICF/IID provider;

(7) Conduct, in accordance with division (C)(8) of this section, a reconsideration for any ICF/IID provider who does both of the following:

(a) Submits a written request for the reconsideration to the Department not later than fifteen days after the provider receives the assessments' results pursuant to division (C)(6) of this section;

(b) Includes in the request all of the following:

(i) A detailed explanation of the items in the assessments' results that the provider disputes;

(ii) Copies of relevant supporting documentation from specific resident records;

(iii) The provider's proposed resolution of the disputes.

(8) When conducting a reconsideration required by division (C)(7) of this section, do both of the following:

(a) Consider all of the following:

(i) The historic results of the resident assessments performed pursuant to the first paragraph of division (C) of section 5111.232 of the Revised Code by the ICF/IID provider who requested the reconsideration;

(ii) All of the materials the provider includes in the reconsideration request;

(iii) All other matters the Department determines necessary for consideration.

(b) Issue a written decision regarding the reconsideration not later than the sooner of the following:

(i) Thirty days after the Department receives the reconsideration request;

(ii) June 1, 2013.

(D) The Department's decision regarding a reconsideration required by division (C)(7) of this section is final and not subject to further appeal.

(E) Regardless of what an ICF/IID's case-mix score is determined to be under division (C)(2) of this section or pursuant to a reconsideration

required by division (C)(7) of this section, no such case-mix score shall cause an ICF/IID's fiscal year 2014 Medicaid rate for direct care costs to be less than ninety per cent of its June 30, 2013, Medicaid rate for direct care costs.

(F) No ICF/IID provider shall be treated as having failed, for the first quarter of calendar year 2013, to timely submit data necessary to determine the ICF/IID's case-mix score for that quarter if the assessment is to be conducted under division (B) of this section.

(G) The Department may provide for assessments to be conducted under division (B) of this section and, if it so provides, shall comply with the other divisions of this section notwithstanding anything to the contrary in sections 5111.20, 5111.23, and 5111.232 of the Revised Code.

SECTION 12. Section 109.57 of the Revised Code appears for purposes of its amendment by this act having been harmonized to include amendments of earlier acts having effective dates that are earlier and later than the effective date of the amendments by this act. This act neither delays nor accelerates those other effective dates, and the earlier amendments take effect according to the acts in which they appear.

SECTION 13. Section 109.57 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly. The version of section 109.57 of the Revised Code that takes effect on January 1, 2014, is presented in this act as a composite of the section as amended by Am. Sub. H.B. 487, Am. Sub. S.B. 316, and Am. Sub. S.B. 337, all of the 129th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act.

SECTION 14. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the certain reforms included in the provisions of this act are immediately needed to ensure the efficient regulation of nursing services in this state, to create a safe environment for the youth of this state while also fulfilling the need to deliver effective

addiction services to others, and to establish appropriate systems for conducting assessments of residents of facilities providing needed care to individuals in this state with intellectual disabilities. Therefore, this act shall go into immediate effect.

---

*Speaker* \_\_\_\_\_ *of the House of Representatives.*

---

*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

---

*Governor.*

Sub. H. B. No. 303

129th G.A.

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 \_\_\_\_\_