

As Rereported by the Senate Rules and Reference Committee

129th General Assembly

Regular Session

2011-2012

Sub. H. B. No. 303

Representative Schuring

Cosponsors: Representatives Carney, Gonzales, Fende, Antonio, Barnes, Garland, Hackett, Yuko, Adams, R., Anielski, Bubp, Celeste, Damschroder, Gardner, Grossman, Hagan, R., Heard, Hill, Hottinger, Johnson, Letson, Lynch, Mallory, McClain, Milkovich, Newbold, O'Brien, Okey, Pillich, Ramos, Reece, Sears, Stebelton, Stinziano, Wachtmann Speaker Batchelder

—

A B I L L

To amend sections 109.57, 1337.11, 2133.01, 2305.113, 1
2305.234, 2317.54, 2711.22, 3701.881, 3701.92, 2
3701.923, 3701.924, 3701.925, 3701.926, 3701.927, 3
3701.928, 3701.929, 3712.01, 3712.03, 3712.09, 4
3712.99, 3721.01, 3793.11, 3795.01, 3963.01, 5
4503.44, 4719.01, 4723.01, 4723.03, 4723.06, 6
4723.063, 4723.07, 4723.08, 4723.09, 4723.17, 7
4723.171, 4723.24, 4723.271, 4723.28, 4723.32, 8
4723.34, 4723.35, 4723.41, 4723.42, 4723.43, 9
4723.431, 4723.44, 4723.48, 4723.482, 4723.485, 10
4723.487, 4723.50, 4723.61, 4723.64, 4723.65, 11
4723.651, 4723.652, 4723.66, 4723.67, 4723.68, 12
4723.69, 4723.71, 4723.72, 4723.73, 4723.74, 13
4723.75, 4723.751, 4723.76, 4723.77, 4723.79, 14
4723.83, 4723.84, 4723.87, 4723.88, 4723.99, 15
4752.02, 4759.01, 4759.03, 4759.05, 4759.06, 16
4759.10, 5111.222, 5111.231, 5111.24, 5111.242, 17
5111.246, 5111.25, 5111.88, 5111.981, 5119.22, and 18
5120.55; to amend, for the purpose of adopting new 19

section numbers as indicated in parentheses, 20
sections 4723.17 (4723.18) and 4723.171 21
(4723.181); to enact new section 4723.17 and 22
sections 3712.031, 3712.041, 3712.051, 3712.061, 23
4723.091, 4723.092, 4723.19, 4723.653, and 24
5111.982; to repeal sections 4723.483, 4723.62, 25
4723.621, 4723.63, and 4723.78 of the Revised 26
Code; and to amend Section 3.19 of Am. Sub. H.B. 27
95 of the 125th General Assembly to revise the 28
laws administered by the Board of Nursing and the 29
professionals regulated by the Board; to update 30
statutory references to professional organizations 31
of dietitians; to extend qualified immunity from 32
civil liability for volunteer services provided by 33
certain behavioral health professionals; to modify 34
the requirements for licensure of methadone 35
treatment programs; to make changes in the laws 36
governing certain Medicaid payments for nursing 37
facility services; to authorize certain 38
assessments of persons with intellectual 39
disabilities residing in intermediate care 40
facilities; to enact "Sarah's Law" regarding the 41
licensure of pediatric respite care programs, to 42
amend the version of section 109.57 of the Revised 43
Code that is scheduled to take effect on January 44
1, 2014, to continue amendments made by this act 45
to that section; and to declare an emergency. 46

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

Section 1. That sections 109.57, 1337.11, 2133.01, 2305.113, 47
2305.234, 2317.54, 2711.22, 3701.881, 3701.92, 3701.923, 3701.924, 48
3701.925, 3701.926, 3701.927, 3701.928, 3701.929, 3712.01, 49

3712.03, 3712.09, 3712.99, 3721.01, 3793.11, 3795.01, 3963.01, 50
4503.44, 4719.01, 4723.01, 4723.03, 4723.06, 4723.063, 4723.07, 51
4723.08, 4723.09, 4723.17, 4723.171, 4723.24, 4723.271, 4723.28, 52
4723.32, 4723.34, 4723.35, 4723.41, 4723.42, 4723.43, 4723.431, 53
4723.44, 4723.48, 4723.482, 4723.485, 4723.487, 4723.50, 4723.61, 54
4723.64, 4723.65, 4723.651, 4723.652, 4723.66, 4723.67, 4723.68, 55
4723.69, 4723.71, 4723.72, 4723.73, 4723.74, 4723.75, 4723.751, 56
4723.76, 4723.77, 4723.79, 4723.83, 4723.84, 4723.87, 4723.88, 57
4723.99, 4752.02, 4759.01, 4759.03, 4759.05, 4759.06, 4759.10, 58
5111.222, 5111.231, 5111.24, 5111.242, 5111.246, 5111.25, 5111.88, 59
5111.981, 5119.22, and 5120.55 be amended; sections 4723.17 60
(4723.18) and 4723.171 (4723.181) be amended for the purpose of 61
adopting new section numbers as indicated in parentheses; and new 62
section 4723.17 and sections 3712.031, 3712.041, 3712.051, 63
3712.061, 4723.091, 4723.092, 4723.19, 4723.653, and 5111.982 of 64
the Revised Code be enacted to read as follows: 65

Sec. 109.57. (A)(1) The superintendent of the bureau of 66
criminal identification and investigation shall procure from 67
wherever procurable and file for record photographs, pictures, 68
descriptions, fingerprints, measurements, and other information 69
that may be pertinent of all persons who have been convicted of 70
committing within this state a felony, any crime constituting a 71
misdemeanor on the first offense and a felony on subsequent 72
offenses, or any misdemeanor described in division (A)(1)(a), 73
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of 74
all children under eighteen years of age who have been adjudicated 75
delinquent children for committing within this state an act that 76
would be a felony or an offense of violence if committed by an 77
adult or who have been convicted of or pleaded guilty to 78
committing within this state a felony or an offense of violence, 79
and of all well-known and habitual criminals. The person in charge 80
of any county, multicounty, municipal, municipal-county, or 81

multicounty-municipal jail or workhouse, community-based 82
correctional facility, halfway house, alternative residential 83
facility, or state correctional institution and the person in 84
charge of any state institution having custody of a person 85
suspected of having committed a felony, any crime constituting a 86
misdemeanor on the first offense and a felony on subsequent 87
offenses, or any misdemeanor described in division (A)(1)(a), 88
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or 89
having custody of a child under eighteen years of age with respect 90
to whom there is probable cause to believe that the child may have 91
committed an act that would be a felony or an offense of violence 92
if committed by an adult shall furnish such material to the 93
superintendent of the bureau. Fingerprints, photographs, or other 94
descriptive information of a child who is under eighteen years of 95
age, has not been arrested or otherwise taken into custody for 96
committing an act that would be a felony or an offense of violence 97
who is not in any other category of child specified in this 98
division, if committed by an adult, has not been adjudicated a 99
delinquent child for committing an act that would be a felony or 100
an offense of violence if committed by an adult, has not been 101
convicted of or pleaded guilty to committing a felony or an 102
offense of violence, and is not a child with respect to whom there 103
is probable cause to believe that the child may have committed an 104
act that would be a felony or an offense of violence if committed 105
by an adult shall not be procured by the superintendent or 106
furnished by any person in charge of any county, multicounty, 107
municipal, municipal-county, or multicounty-municipal jail or 108
workhouse, community-based correctional facility, halfway house, 109
alternative residential facility, or state correctional 110
institution, except as authorized in section 2151.313 of the 111
Revised Code. 112

(2) Every clerk of a court of record in this state, other 113
than the supreme court or a court of appeals, shall send to the 114

superintendent of the bureau a weekly report containing a summary 115
of each case involving a felony, involving any crime constituting 116
a misdemeanor on the first offense and a felony on subsequent 117
offenses, involving a misdemeanor described in division (A)(1)(a), 118
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or 119
involving an adjudication in a case in which a child under 120
eighteen years of age was alleged to be a delinquent child for 121
committing an act that would be a felony or an offense of violence 122
if committed by an adult. The clerk of the court of common pleas 123
shall include in the report and summary the clerk sends under this 124
division all information described in divisions (A)(2)(a) to (f) 125
of this section regarding a case before the court of appeals that 126
is served by that clerk. The summary shall be written on the 127
standard forms furnished by the superintendent pursuant to 128
division (B) of this section and shall include the following 129
information: 130

(a) The incident tracking number contained on the standard 131
forms furnished by the superintendent pursuant to division (B) of 132
this section; 133

(b) The style and number of the case; 134

(c) The date of arrest, offense, summons, or arraignment; 135

(d) The date that the person was convicted of or pleaded 136
guilty to the offense, adjudicated a delinquent child for 137
committing the act that would be a felony or an offense of 138
violence if committed by an adult, found not guilty of the 139
offense, or found not to be a delinquent child for committing an 140
act that would be a felony or an offense of violence if committed 141
by an adult, the date of an entry dismissing the charge, an entry 142
declaring a mistrial of the offense in which the person is 143
discharged, an entry finding that the person or child is not 144
competent to stand trial, or an entry of a nolle prosequi, or the 145
date of any other determination that constitutes final resolution 146

of the case; 147

(e) A statement of the original charge with the section of 148
the Revised Code that was alleged to be violated; 149

(f) If the person or child was convicted, pleaded guilty, or 150
was adjudicated a delinquent child, the sentence or terms of 151
probation imposed or any other disposition of the offender or the 152
delinquent child. 153

If the offense involved the disarming of a law enforcement 154
officer or an attempt to disarm a law enforcement officer, the 155
clerk shall clearly state that fact in the summary, and the 156
superintendent shall ensure that a clear statement of that fact is 157
placed in the bureau's records. 158

(3) The superintendent shall cooperate with and assist 159
sheriffs, chiefs of police, and other law enforcement officers in 160
the establishment of a complete system of criminal identification 161
and in obtaining fingerprints and other means of identification of 162
all persons arrested on a charge of a felony, any crime 163
constituting a misdemeanor on the first offense and a felony on 164
subsequent offenses, or a misdemeanor described in division 165
(A)(1)(a), (A)(5)(a), or (A)(7)(a) of section 109.572 of the 166
Revised Code and of all children under eighteen years of age 167
arrested or otherwise taken into custody for committing an act 168
that would be a felony or an offense of violence if committed by 169
an adult. The superintendent also shall file for record the 170
fingerprint impressions of all persons confined in a county, 171
multicounty, municipal, municipal-county, or multicounty-municipal 172
jail or workhouse, community-based correctional facility, halfway 173
house, alternative residential facility, or state correctional 174
institution for the violation of state laws and of all children 175
under eighteen years of age who are confined in a county, 176
multicounty, municipal, municipal-county, or multicounty-municipal 177
jail or workhouse, community-based correctional facility, halfway 178

house, alternative residential facility, or state correctional 179
institution or in any facility for delinquent children for 180
committing an act that would be a felony or an offense of violence 181
if committed by an adult, and any other information that the 182
superintendent may receive from law enforcement officials of the 183
state and its political subdivisions. 184

(4) The superintendent shall carry out Chapter 2950. of the 185
Revised Code with respect to the registration of persons who are 186
convicted of or plead guilty to a sexually oriented offense or a 187
child-victim oriented offense and with respect to all other duties 188
imposed on the bureau under that chapter. 189

(5) The bureau shall perform centralized recordkeeping 190
functions for criminal history records and services in this state 191
for purposes of the national crime prevention and privacy compact 192
set forth in section 109.571 of the Revised Code and is the 193
criminal history record repository as defined in that section for 194
purposes of that compact. The superintendent or the 195
superintendent's designee is the compact officer for purposes of 196
that compact and shall carry out the responsibilities of the 197
compact officer specified in that compact. 198

(B) The superintendent shall prepare and furnish to every 199
county, multicounty, municipal, municipal-county, or 200
multicounty-municipal jail or workhouse, community-based 201
correctional facility, halfway house, alternative residential 202
facility, or state correctional institution and to every clerk of 203
a court in this state specified in division (A)(2) of this section 204
standard forms for reporting the information required under 205
division (A) of this section. The standard forms that the 206
superintendent prepares pursuant to this division may be in a 207
tangible format, in an electronic format, or in both tangible 208
formats and electronic formats. 209

(C)(1) The superintendent may operate a center for 210

electronic, automated, or other data processing for the storage 211
and retrieval of information, data, and statistics pertaining to 212
criminals and to children under eighteen years of age who are 213
adjudicated delinquent children for committing an act that would 214
be a felony or an offense of violence if committed by an adult, 215
criminal activity, crime prevention, law enforcement, and criminal 216
justice, and may establish and operate a statewide communications 217
network to be known as the Ohio law enforcement gateway to gather 218
and disseminate information, data, and statistics for the use of 219
law enforcement agencies and for other uses specified in this 220
division. The superintendent may gather, store, retrieve, and 221
disseminate information, data, and statistics that pertain to 222
children who are under eighteen years of age and that are gathered 223
pursuant to sections 109.57 to 109.61 of the Revised Code together 224
with information, data, and statistics that pertain to adults and 225
that are gathered pursuant to those sections. 226

(2) The superintendent or the superintendent's designee shall 227
gather information of the nature described in division (C)(1) of 228
this section that pertains to the offense and delinquency history 229
of a person who has been convicted of, pleaded guilty to, or been 230
adjudicated a delinquent child for committing a sexually oriented 231
offense or a child-victim oriented offense for inclusion in the 232
state registry of sex offenders and child-victim offenders 233
maintained pursuant to division (A)(1) of section 2950.13 of the 234
Revised Code and in the internet database operated pursuant to 235
division (A)(13) of that section and for possible inclusion in the 236
internet database operated pursuant to division (A)(11) of that 237
section. 238

(3) In addition to any other authorized use of information, 239
data, and statistics of the nature described in division (C)(1) of 240
this section, the superintendent or the superintendent's designee 241
may provide and exchange the information, data, and statistics 242

pursuant to the national crime prevention and privacy compact as 243
described in division (A)(5) of this section. 244

(4) The attorney general may adopt rules under Chapter 119. 245
of the Revised Code establishing guidelines for the operation of 246
and participation in the Ohio law enforcement gateway. The rules 247
may include criteria for granting and restricting access to 248
information gathered and disseminated through the Ohio law 249
enforcement gateway. The attorney general shall permit the state 250
medical board and board of nursing to access and view, but not 251
alter, information gathered and disseminated through the Ohio law 252
enforcement gateway. 253

The attorney general may appoint a steering committee to 254
advise the attorney general in the operation of the Ohio law 255
enforcement gateway that is comprised of persons who are 256
representatives of the criminal justice agencies in this state 257
that use the Ohio law enforcement gateway and is chaired by the 258
superintendent or the superintendent's designee. 259

(D)(1) The following are not public records under section 260
149.43 of the Revised Code: 261

(a) Information and materials furnished to the superintendent 262
pursuant to division (A) of this section; 263

(b) Information, data, and statistics gathered or 264
disseminated through the Ohio law enforcement gateway pursuant to 265
division (C)(1) of this section; 266

(c) Information and materials furnished to any board or 267
person under division (F) or (G) of this section. 268

(2) The superintendent or the superintendent's designee shall 269
gather and retain information so furnished under division (A) of 270
this section that pertains to the offense and delinquency history 271
of a person who has been convicted of, pleaded guilty to, or been 272
adjudicated a delinquent child for committing a sexually oriented 273

offense or a child-victim oriented offense for the purposes 274
described in division (C)(2) of this section. 275

(E)(1) The attorney general shall adopt rules, in accordance 276
with Chapter 119. of the Revised Code and subject to division 277
(E)(2) of this section, setting forth the procedure by which a 278
person may receive or release information gathered by the 279
superintendent pursuant to division (A) of this section. A 280
reasonable fee may be charged for this service. If a temporary 281
employment service submits a request for a determination of 282
whether a person the service plans to refer to an employment 283
position has been convicted of or pleaded guilty to an offense 284
listed or described in division (A)(1), (2), or (3) of section 285
109.572 of the Revised Code, the request shall be treated as a 286
single request and only one fee shall be charged. 287

(2) Except as otherwise provided in this division, a rule 288
adopted under division (E)(1) of this section may provide only for 289
the release of information gathered pursuant to division (A) of 290
this section that relates to the conviction of a person, or a 291
person's plea of guilty to, a criminal offense. The superintendent 292
shall not release, and the attorney general shall not adopt any 293
rule under division (E)(1) of this section that permits the 294
release of, any information gathered pursuant to division (A) of 295
this section that relates to an adjudication of a child as a 296
delinquent child, or that relates to a criminal conviction of a 297
person under eighteen years of age if the person's case was 298
transferred back to a juvenile court under division (B)(2) or (3) 299
of section 2152.121 of the Revised Code and the juvenile court 300
imposed a disposition or serious youthful offender disposition 301
upon the person under either division, unless either of the 302
following applies with respect to the adjudication or conviction: 303

(a) The adjudication or conviction was for a violation of 304
section 2903.01 or 2903.02 of the Revised Code. 305

(b) The adjudication or conviction was for a sexually 306
oriented offense, the juvenile court was required to classify the 307
child a juvenile offender registrant for that offense under 308
section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that 309
classification has not been removed. 310

(F)(1) As used in division (F)(2) of this section, "head 311
start agency" means an entity in this state that has been approved 312
to be an agency for purposes of subchapter II of the "Community 313
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 314
as amended. 315

(2)(a) In addition to or in conjunction with any request that 316
is required to be made under section 109.572, 2151.86, 3301.32, 317
3301.541, division (C) of section 3310.58, or section 3319.39, 318
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, or 319
5153.111 of the Revised Code or that is made under section 320
3314.41, 3319.392, 3326.25, or 3328.20 of the Revised Code, the 321
board of education of any school district; the director of 322
developmental disabilities; any county board of developmental 323
disabilities; any provider or subcontractor as defined in section 324
5123.081 of the Revised Code; the chief administrator of any 325
chartered nonpublic school; the chief administrator of a 326
registered private provider that is not also a chartered nonpublic 327
school; the chief administrator of any home health agency; the 328
chief administrator of or person operating any child day-care 329
center, type A family day-care home, or type B family day-care 330
home licensed or certified under Chapter 5104. of the Revised 331
Code; the administrator of any type C family day-care home 332
certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 333
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 334
general assembly; the chief administrator of any head start 335
agency; the executive director of a public children services 336
agency; a private company described in section 3314.41, 3319.392, 337

3326.25, or 3328.20 of the Revised Code; or an employer described 338
in division (J)(2) of section 3327.10 of the Revised Code may 339
request that the superintendent of the bureau investigate and 340
determine, with respect to any individual who has applied for 341
employment in any position after October 2, 1989, or any 342
individual wishing to apply for employment with a board of 343
education may request, with regard to the individual, whether the 344
bureau has any information gathered under division (A) of this 345
section that pertains to that individual. On receipt of the 346
request, subject to division (E)(2) of this section, the 347
superintendent shall determine whether that information exists 348
and, upon request of the person, board, or entity requesting 349
information, also shall request from the federal bureau of 350
investigation any criminal records it has pertaining to that 351
individual. The superintendent or the superintendent's designee 352
also may request criminal history records from other states or the 353
federal government pursuant to the national crime prevention and 354
privacy compact set forth in section 109.571 of the Revised Code. 355
Within thirty days of the date that the superintendent receives a 356
request, subject to division (E)(2) of this section, the 357
superintendent shall send to the board, entity, or person a report 358
of any information that the superintendent determines exists, 359
including information contained in records that have been sealed 360
under section 2953.32 of the Revised Code, and, within thirty days 361
of its receipt, subject to division (E)(2) of this section, shall 362
send the board, entity, or person a report of any information 363
received from the federal bureau of investigation, other than 364
information the dissemination of which is prohibited by federal 365
law. 366

(b) When a board of education or a registered private 367
provider is required to receive information under this section as 368
a prerequisite to employment of an individual pursuant to division 369
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 370

may accept a certified copy of records that were issued by the 371
bureau of criminal identification and investigation and that are 372
presented by an individual applying for employment with the 373
district in lieu of requesting that information itself. In such a 374
case, the board shall accept the certified copy issued by the 375
bureau in order to make a photocopy of it for that individual's 376
employment application documents and shall return the certified 377
copy to the individual. In a case of that nature, a district or 378
provider only shall accept a certified copy of records of that 379
nature within one year after the date of their issuance by the 380
bureau. 381

(c) Notwithstanding division (F)(2)(a) of this section, in 382
the case of a request under section 3319.39, 3319.391, or 3327.10 383
of the Revised Code only for criminal records maintained by the 384
federal bureau of investigation, the superintendent shall not 385
determine whether any information gathered under division (A) of 386
this section exists on the person for whom the request is made. 387

(3) The state board of education may request, with respect to 388
any individual who has applied for employment after October 2, 389
1989, in any position with the state board or the department of 390
education, any information that a school district board of 391
education is authorized to request under division (F)(2) of this 392
section, and the superintendent of the bureau shall proceed as if 393
the request has been received from a school district board of 394
education under division (F)(2) of this section. 395

(4) When the superintendent of the bureau receives a request 396
for information under section 3319.291 of the Revised Code, the 397
superintendent shall proceed as if the request has been received 398
from a school district board of education and shall comply with 399
divisions (F)(2)(a) and (c) of this section. 400

(5) When a recipient of a classroom reading improvement grant 401
paid under section 3301.86 of the Revised Code requests, with 402

respect to any individual who applies to participate in providing 403
any program or service funded in whole or in part by the grant, 404
the information that a school district board of education is 405
authorized to request under division (F)(2)(a) of this section, 406
the superintendent of the bureau shall proceed as if the request 407
has been received from a school district board of education under 408
division (F)(2)(a) of this section. 409

(G) In addition to or in conjunction with any request that is 410
required to be made under section 3701.881, 3712.09, or 3721.121 411
of the Revised Code with respect to an individual who has applied 412
for employment in a position that involves providing direct care 413
to an older adult or adult resident, the chief administrator of a 414
home health agency, hospice care program, home licensed under 415
Chapter 3721. of the Revised Code, or adult day-care program 416
operated pursuant to rules adopted under section 3721.04 of the 417
Revised Code may request that the superintendent of the bureau 418
investigate and determine, with respect to any individual who has 419
applied after January 27, 1997, for employment in a position that 420
does not involve providing direct care to an older adult or adult 421
resident, whether the bureau has any information gathered under 422
division (A) of this section that pertains to that individual. 423

In addition to or in conjunction with any request that is 424
required to be made under section 173.27 of the Revised Code with 425
respect to an individual who has applied for employment in a 426
position that involves providing ombudsperson services to 427
residents of long-term care facilities or recipients of 428
community-based long-term care services, the state long-term care 429
ombudsperson, ombudsperson's designee, or director of health may 430
request that the superintendent investigate and determine, with 431
respect to any individual who has applied for employment in a 432
position that does not involve providing such ombudsperson 433
services, whether the bureau has any information gathered under 434

division (A) of this section that pertains to that applicant. 435

In addition to or in conjunction with any request that is 436
required to be made under section 173.394 of the Revised Code with 437
respect to an individual who has applied for employment in a 438
position that involves providing direct care to an individual, the 439
chief administrator of a community-based long-term care agency may 440
request that the superintendent investigate and determine, with 441
respect to any individual who has applied for employment in a 442
position that does not involve providing direct care, whether the 443
bureau has any information gathered under division (A) of this 444
section that pertains to that applicant. 445

In addition to or in conjunction with any request that is 446
required to be made under section 3712.09 of the Revised Code with 447
respect to an individual who has applied for employment in a 448
position that involves providing direct care to a pediatric 449
respite care patient, the chief administrator of a pediatric 450
respite care program may request that the superintendent of the 451
bureau investigate and determine, with respect to any individual 452
who has applied for employment in a position that does not involve 453
providing direct care to a pediatric respite care patient, whether 454
the bureau has any information gathered under division (A) of this 455
section that pertains to that individual. 456

On receipt of a request under this division, the 457
superintendent shall determine whether that information exists 458
and, on request of the individual requesting information, shall 459
also request from the federal bureau of investigation any criminal 460
records it has pertaining to the applicant. The superintendent or 461
the superintendent's designee also may request criminal history 462
records from other states or the federal government pursuant to 463
the national crime prevention and privacy compact set forth in 464
section 109.571 of the Revised Code. Within thirty days of the 465
date a request is received, subject to division (E)(2) of this 466

section, the superintendent shall send to the requester a report 467
of any information determined to exist, including information 468
contained in records that have been sealed under section 2953.32 469
of the Revised Code, and, within thirty days of its receipt, shall 470
send the requester a report of any information received from the 471
federal bureau of investigation, other than information the 472
dissemination of which is prohibited by federal law. 473

(H) Information obtained by a government entity or person 474
under this section is confidential and shall not be released or 475
disseminated. 476

(I) The superintendent may charge a reasonable fee for 477
providing information or criminal records under division (F)(2) or 478
(G) of this section. 479

(J) As used in this section: 480

(1) "Pediatric respite care program" and "pediatric respite 481
care patient" have the same meanings as in section 3712.01 of the 482
Revised Code. 483

(2) "Sexually oriented offense" and "child-victim oriented 484
offense" have the same meanings as in section 2950.01 of the 485
Revised Code. 486

~~(2)~~(3) "Registered private provider" means a nonpublic school 487
or entity registered with the superintendent of public instruction 488
under section 3310.41 of the Revised Code to participate in the 489
autism scholarship program or section 3310.58 of the Revised Code 490
to participate in the Jon Peterson special needs scholarship 491
program. 492

Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the 493
Revised Code: 494

(A) "Adult" means a person who is eighteen years of age or 495
older. 496

(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.	527 528
(I) "Health care facility" means any of the following:	529
(1) A hospital;	530
(2) A hospice care program, <u>pediatric respite care program</u> , or other institution that specializes in comfort care of patients in a terminal condition or in a permanently unconscious state;	531 532 533
(3) A nursing home;	534
(4) A home health agency;	535
(5) An intermediate care facility for the mentally retarded;	536
(6) A regulated community mental health organization.	537
(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.	538 539 540 541 542 543
(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.	544 545
(L) "Hospice care program" has and " <u>pediatric respite care program</u> " have the same meaning <u>meanings</u> as in section 3712.01 of the Revised Code.	546 547 548
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	549 550
(N) "Hydration" means fluids that are artificially or technologically administered.	551 552
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	553 554
(P) "Intermediate care facility for the mentally retarded"	555

has the same meaning as in section 5111.20 of the Revised Code. 556

(Q) "Life-sustaining treatment" means any medical procedure, 557
treatment, intervention, or other measure that, when administered 558
to a principal, will serve principally to prolong the process of 559
dying. 560

(R) "Medical claim" has the same meaning as in section 561
2305.113 of the Revised Code. 562

(S) "Mental health treatment" has the same meaning as in 563
section 2135.01 of the Revised Code. 564

(T) "Nursing home" has the same meaning as in section 3721.01 565
of the Revised Code. 566

(U) "Nutrition" means sustenance that is artificially or 567
technologically administered. 568

(V) "Permanently unconscious state" means a state of 569
permanent unconsciousness in a principal that, to a reasonable 570
degree of medical certainty as determined in accordance with 571
reasonable medical standards by the principal's attending 572
physician and one other physician who has examined the principal, 573
is characterized by both of the following: 574

(1) Irreversible unawareness of one's being and environment. 575

(2) Total loss of cerebral cortical functioning, resulting in 576
the principal having no capacity to experience pain or suffering. 577

(W) "Person" has the same meaning as in section 1.59 of the 578
Revised Code and additionally includes political subdivisions and 579
governmental agencies, boards, commissions, departments, 580
institutions, offices, and other instrumentalities. 581

(X) "Physician" means a person who is authorized under 582
Chapter 4731. of the Revised Code to practice medicine and surgery 583
or osteopathic medicine and surgery. 584

(Y) "Political subdivision" and "state" have the same 585

meanings as in section 2744.01 of the Revised Code. 586

(Z) "Professional disciplinary action" means action taken by 587
the board or other entity that regulates the professional conduct 588
of health care personnel, including the state medical board and 589
the board of nursing. 590

(AA) "Regulated community mental health organization" means a 591
residential facility as defined and licensed under section 5119.22 592
of the Revised Code or a community mental health agency as defined 593
in section 5122.01 of the Revised Code. 594

(BB) "Terminal condition" means an irreversible, incurable, 595
and untreatable condition caused by disease, illness, or injury 596
from which, to a reasonable degree of medical certainty as 597
determined in accordance with reasonable medical standards by a 598
principal's attending physician and one other physician who has 599
examined the principal, both of the following apply: 600

(1) There can be no recovery. 601

(2) Death is likely to occur within a relatively short time 602
if life-sustaining treatment is not administered. 603

(CC) "Tort action" means a civil action for damages for 604
injury, death, or loss to person or property, other than a civil 605
action for damages for a breach of contract or another agreement 606
between persons. 607

Sec. 2133.01. Unless the context otherwise requires, as used 608
in sections 2133.01 to 2133.15 of the Revised Code: 609

(A) "Adult" means an individual who is eighteen years of age 610
or older. 611

(B) "Attending physician" means the physician to whom a 612
declarant or other patient, or the family of a declarant or other 613
patient, has assigned primary responsibility for the treatment or 614
care of the declarant or other patient, or, if the responsibility 615

has not been assigned, the physician who has accepted that 616
responsibility. 617

(C) "Comfort care" means any of the following: 618

(1) Nutrition when administered to diminish the pain or 619
discomfort of a declarant or other patient, but not to postpone 620
the declarant's or other patient's death; 621

(2) Hydration when administered to diminish the pain or 622
discomfort of a declarant or other patient, but not to postpone 623
the declarant's or other patient's death; 624

(3) Any other medical or nursing procedure, treatment, 625
intervention, or other measure that is taken to diminish the pain 626
or discomfort of a declarant or other patient, but not to postpone 627
the declarant's or other patient's death. 628

(D) "Consulting physician" means a physician who, in 629
conjunction with the attending physician of a declarant or other 630
patient, makes one or more determinations that are required to be 631
made by the attending physician, or to be made by the attending 632
physician and one other physician, by an applicable provision of 633
this chapter, to a reasonable degree of medical certainty and in 634
accordance with reasonable medical standards. 635

(E) "Declarant" means any adult who has executed a 636
declaration in accordance with section 2133.02 of the Revised 637
Code. 638

(F) "Declaration" means a written document executed in 639
accordance with section 2133.02 of the Revised Code. 640

(G) "Durable power of attorney for health care" means a 641
document created pursuant to sections 1337.11 to 1337.17 of the 642
Revised Code. 643

(H) "Guardian" means a person appointed by a probate court 644
pursuant to Chapter 2111. of the Revised Code to have the care and 645

management of the person of an incompetent.	646
(I) "Health care facility" means any of the following:	647
(1) A hospital;	648
(2) A hospice care program, <u>pediatric respite care program</u> ,	649
or other institution that specializes in comfort care of patients	650
in a terminal condition or in a permanently unconscious state;	651
(3) A nursing home or residential care facility, as defined	652
in section 3721.01 of the Revised Code;	653
(4) A home health agency and any residential facility where a	654
person is receiving care under the direction of a home health	655
agency;	656
(5) An intermediate care facility for the mentally retarded.	657
(J) "Health care personnel" means physicians, nurses,	658
physician assistants, emergency medical technicians-basic,	659
emergency medical technicians-intermediate, emergency medical	660
technicians-paramedic, medical technicians, dietitians, other	661
authorized persons acting under the direction of an attending	662
physician, and administrators of health care facilities.	663
(K) "Home health agency" has the same meaning as in section	664
3701.881 of the Revised Code.	665
(L) "Hospice care program" has and " <u>pediatric respite care</u>	666
<u>program</u> " <u>have</u> the same meaning <u>meanings</u> as in section 3712.01 of	667
the Revised Code.	668
(M) "Hospital" has the same meanings as in sections 3701.01,	669
3727.01, and 5122.01 of the Revised Code.	670
(N) "Hydration" means fluids that are artificially or	671
technologically administered.	672
(O) "Incompetent" has the same meaning as in section 2111.01	673
of the Revised Code.	674

(P) "Intermediate care facility for the mentally retarded" 675
has the same meaning as in section 5111.20 of the Revised Code. 676

(Q) "Life-sustaining treatment" means any medical procedure, 677
treatment, intervention, or other measure that, when administered 678
to a qualified patient or other patient, will serve principally to 679
prolong the process of dying. 680

(R) "Nurse" means a person who is licensed to practice 681
nursing as a registered nurse or to practice practical nursing as 682
a licensed practical nurse pursuant to Chapter 4723. of the 683
Revised Code. 684

(S) "Nursing home" has the same meaning as in section 3721.01 685
of the Revised Code. 686

(T) "Nutrition" means sustenance that is artificially or 687
technologically administered. 688

(U) "Permanently unconscious state" means a state of 689
permanent unconsciousness in a declarant or other patient that, to 690
a reasonable degree of medical certainty as determined in 691
accordance with reasonable medical standards by the declarant's or 692
other patient's attending physician and one other physician who 693
has examined the declarant or other patient, is characterized by 694
both of the following: 695

(1) Irreversible unawareness of one's being and environment. 696

(2) Total loss of cerebral cortical functioning, resulting in 697
the declarant or other patient having no capacity to experience 698
pain or suffering. 699

(V) "Person" has the same meaning as in section 1.59 of the 700
Revised Code and additionally includes political subdivisions and 701
governmental agencies, boards, commissions, departments, 702
institutions, offices, and other instrumentalities. 703

(W) "Physician" means a person who is authorized under 704

Chapter 4731. of the Revised Code to practice medicine and surgery 705
or osteopathic medicine and surgery. 706

(X) "Political subdivision" and "state" have the same 707
meanings as in section 2744.01 of the Revised Code. 708

(Y) "Professional disciplinary action" means action taken by 709
the board or other entity that regulates the professional conduct 710
of health care personnel, including the state medical board and 711
the board of nursing. 712

(Z) "Qualified patient" means an adult who has executed a 713
declaration and has been determined to be in a terminal condition 714
or in a permanently unconscious state. 715

(AA) "Terminal condition" means an irreversible, incurable, 716
and untreatable condition caused by disease, illness, or injury 717
from which, to a reasonable degree of medical certainty as 718
determined in accordance with reasonable medical standards by a 719
declarant's or other patient's attending physician and one other 720
physician who has examined the declarant or other patient, both of 721
the following apply: 722

(1) There can be no recovery. 723

(2) Death is likely to occur within a relatively short time 724
if life-sustaining treatment is not administered. 725

(BB) "Tort action" means a civil action for damages for 726
injury, death, or loss to person or property, other than a civil 727
action for damages for breach of a contract or another agreement 728
between persons. 729

Sec. 2305.113. (A) Except as otherwise provided in this 730
section, an action upon a medical, dental, optometric, or 731
chiropractic claim shall be commenced within one year after the 732
cause of action accrued. 733

(B)(1) If prior to the expiration of the one-year period 734

specified in division (A) of this section, a claimant who 735
allegedly possesses a medical, dental, optometric, or chiropractic 736
claim gives to the person who is the subject of that claim written 737
notice that the claimant is considering bringing an action upon 738
that claim, that action may be commenced against the person 739
notified at any time within one hundred eighty days after the 740
notice is so given. 741

(2) An insurance company shall not consider the existence or 742
nonexistence of a written notice described in division (B)(1) of 743
this section in setting the liability insurance premium rates that 744
the company may charge the company's insured person who is 745
notified by that written notice. 746

(C) Except as to persons within the age of minority or of 747
unsound mind as provided by section 2305.16 of the Revised Code, 748
and except as provided in division (D) of this section, both of 749
the following apply: 750

(1) No action upon a medical, dental, optometric, or 751
chiropractic claim shall be commenced more than four years after 752
the occurrence of the act or omission constituting the alleged 753
basis of the medical, dental, optometric, or chiropractic claim. 754

(2) If an action upon a medical, dental, optometric, or 755
chiropractic claim is not commenced within four years after the 756
occurrence of the act or omission constituting the alleged basis 757
of the medical, dental, optometric, or chiropractic claim, then, 758
any action upon that claim is barred. 759

(D)(1) If a person making a medical claim, dental claim, 760
optometric claim, or chiropractic claim, in the exercise of 761
reasonable care and diligence, could not have discovered the 762
injury resulting from the act or omission constituting the alleged 763
basis of the claim within three years after the occurrence of the 764
act or omission, but, in the exercise of reasonable care and 765

diligence, discovers the injury resulting from that act or 766
omission before the expiration of the four-year period specified 767
in division (C)(1) of this section, the person may commence an 768
action upon the claim not later than one year after the person 769
discovers the injury resulting from that act or omission. 770

(2) If the alleged basis of a medical claim, dental claim, 771
optometric claim, or chiropractic claim is the occurrence of an 772
act or omission that involves a foreign object that is left in the 773
body of the person making the claim, the person may commence an 774
action upon the claim not later than one year after the person 775
discovered the foreign object or not later than one year after the 776
person, with reasonable care and diligence, should have discovered 777
the foreign object. 778

(3) A person who commences an action upon a medical claim, 779
dental claim, optometric claim, or chiropractic claim under the 780
circumstances described in division (D)(1) or (2) of this section 781
has the affirmative burden of proving, by clear and convincing 782
evidence, that the person, with reasonable care and diligence, 783
could not have discovered the injury resulting from the act or 784
omission constituting the alleged basis of the claim within the 785
three-year period described in division (D)(1) of this section or 786
within the one-year period described in division (D)(2) of this 787
section, whichever is applicable. 788

(E) As used in this section: 789

(1) "Hospital" includes any person, corporation, association, 790
board, or authority that is responsible for the operation of any 791
hospital licensed or registered in the state, including, but not 792
limited to, those that are owned or operated by the state, 793
political subdivisions, any person, any corporation, or any 794
combination of the state, political subdivisions, persons, and 795
corporations. "Hospital" also includes any person, corporation, 796
association, board, entity, or authority that is responsible for 797

the operation of any clinic that employs a full-time staff of 798
physicians practicing in more than one recognized medical 799
specialty and rendering advice, diagnosis, care, and treatment to 800
individuals. "Hospital" does not include any hospital operated by 801
the government of the United States or any of its branches. 802

(2) "Physician" means a person who is licensed to practice 803
medicine and surgery or osteopathic medicine and surgery by the 804
state medical board or a person who otherwise is authorized to 805
practice medicine and surgery or osteopathic medicine and surgery 806
in this state. 807

(3) "Medical claim" means any claim that is asserted in any 808
civil action against a physician, podiatrist, hospital, home, or 809
residential facility, against any employee or agent of a 810
physician, podiatrist, hospital, home, or residential facility, or 811
against a licensed practical nurse, registered nurse, advanced 812
practice registered nurse, physical therapist, physician 813
assistant, emergency medical technician-basic, emergency medical 814
technician-intermediate, or emergency medical 815
technician-paramedic, and that arises out of the medical 816
diagnosis, care, or treatment of any person. "Medical claim" 817
includes the following: 818

(a) Derivative claims for relief that arise from the medical 819
diagnosis, care, or treatment of a person; 820

(b) Claims that arise out of the medical diagnosis, care, or 821
treatment of any person and to which either of the following 822
applies: 823

(i) The claim results from acts or omissions in providing 824
medical care. 825

(ii) The claim results from the hiring, training, 826
supervision, retention, or termination of caregivers providing 827
medical diagnosis, care, or treatment. 828

(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 860
chiropractic diagnosis, care, or treatment. 861

(8) "Registered nurse" means any person who is licensed to 862
practice nursing as a registered nurse by the board of nursing. 863

(9) "Chiropractic claim" means any claim that is asserted in 864
any civil action against a chiropractor, or against any employee 865
or agent of a chiropractor, and that arises out of the 866
chiropractic diagnosis, care, or treatment of any person. 867
"Chiropractic claim" includes derivative claims for relief that 868
arise from the chiropractic diagnosis, care, or treatment of a 869
person. 870

(10) "Chiropractor" means any person who is licensed to 871
practice chiropractic by the state chiropractic board. 872

(11) "Optometric claim" means any claim that is asserted in 873
any civil action against an optometrist, or against any employee 874
or agent of an optometrist, and that arises out of the optometric 875
diagnosis, care, or treatment of any person. "Optometric claim" 876
includes derivative claims for relief that arise from the 877
optometric diagnosis, care, or treatment of a person. 878

(12) "Optometrist" means any person licensed to practice 879
optometry by the state board of optometry. 880

(13) "Physical therapist" means any person who is licensed to 881
practice physical therapy under Chapter 4755. of the Revised Code. 882

(14) "Home" has the same meaning as in section 3721.10 of the 883
Revised Code. 884

(15) "Residential facility" means a facility licensed under 885
section 5123.19 of the Revised Code. 886

(16) "Advanced practice registered nurse" means any certified 887
nurse practitioner, clinical nurse specialist, certified 888
registered nurse anesthetist, or certified nurse-midwife who holds 889

a certificate of authority issued by the board of nursing under 890
Chapter 4723. of the Revised Code. 891

(17) "Licensed practical nurse" means any person who is 892
licensed to practice nursing as a licensed practical nurse by the 893
board of nursing pursuant to Chapter 4723. of the Revised Code. 894

(18) "Physician assistant" means any person who holds a valid 895
certificate to practice issued pursuant to Chapter 4730. of the 896
Revised Code. 897

(19) "Emergency medical technician-basic," "emergency medical 898
technician-intermediate," and "emergency medical 899
technician-paramedic" means any person who is certified under 900
Chapter 4765. of the Revised Code as an emergency medical 901
technician-basic, emergency medical technician-intermediate, or 902
emergency medical technician-paramedic, whichever is applicable. 903

Sec. 2305.234. (A) As used in this section: 904

(1) "Chiropractic claim," "medical claim," and "optometric 905
claim" have the same meanings as in section 2305.113 of the 906
Revised Code. 907

(2) "Dental claim" has the same meaning as in section 908
2305.113 of the Revised Code, except that it does not include any 909
claim arising out of a dental operation or any derivative claim 910
for relief that arises out of a dental operation. 911

(3) "Governmental health care program" has the same meaning 912
as in section 4731.65 of the Revised Code. 913

(4) "Health care facility or location" means a hospital, 914
clinic, ambulatory surgical facility, office of a health care 915
professional or associated group of health care professionals, 916
training institution for health care professionals, or any other 917
place where medical, dental, or other health-related diagnosis, 918
care, or treatment is provided to a person. 919

(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:	920 921 922
(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	923 924 925
(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;	926 927 928 929 930 931
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	932 933
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	934 935
(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;	936 937 938
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	939 940
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	941 942
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	943 944
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	945 946
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	947 948
(k) Emergency medical technicians-basic, emergency medical	949

technicians-intermediate, and emergency medical	950
technicians-paramedic, certified under Chapter 4765. of the	951
Revised Code;	952
(1) Respiratory care professionals licensed under Chapter	953
4761. of the Revised Code;	954
(m) Speech-language pathologists and audiologists licensed	955
under Chapter 4753. of the Revised Code;	956
<u>(n) Professional clinical counselors, professional</u>	957
<u>counselors, independent social workers, social workers,</u>	958
<u>independent marriage and family therapists, and marriage and</u>	959
<u>family therapists, licensed under Chapter 4757. of the Revised</u>	960
<u>Code;</u>	961
<u>(o) Psychologists licensed under Chapter 4732. of the Revised</u>	962
<u>Code;</u>	963
<u>(p) Independent chemical dependency counselors, chemical</u>	964
<u>dependency counselors III, chemical dependency counselors II, and</u>	965
<u>chemical dependency counselors I, licensed under Chapter 4758. of</u>	966
<u>the Revised Code.</u>	967
(6) "Health care worker" means a person other than a health	968
care professional who provides medical, dental, or other	969
health-related care or treatment under the direction of a health	970
care professional with the authority to direct that individual's	971
activities, including medical technicians, medical assistants,	972
dental assistants, orderlies, aides, and individuals acting in	973
similar capacities.	974
(7) "Indigent and uninsured person" means a person who meets	975
all of the following requirements:	976
(a) The person's income is not greater than two hundred per	977
cent of the current poverty line as defined by the United States	978
office of management and budget and revised in accordance with	979

section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 980
95 Stat. 511, 42 U.S.C. 9902, as amended. 981

(b) The person is not eligible to receive medical assistance 982
under Chapter 5111. of the Revised Code or assistance under any 983
other governmental health care program. 984

(c) Either of the following applies: 985

(i) The person is not a policyholder, certificate holder, 986
insured, contract holder, subscriber, enrollee, member, 987
beneficiary, or other covered individual under a health insurance 988
or health care policy, contract, or plan. 989

(ii) The person is a policyholder, certificate holder, 990
insured, contract holder, subscriber, enrollee, member, 991
beneficiary, or other covered individual under a health insurance 992
or health care policy, contract, or plan, but the insurer, policy, 993
contract, or plan denies coverage or is the subject of insolvency 994
or bankruptcy proceedings in any jurisdiction. 995

(8) "Nonprofit health care referral organization" means an 996
entity that is not operated for profit and refers patients to, or 997
arranges for the provision of, health-related diagnosis, care, or 998
treatment by a health care professional or health care worker. 999

(9) "Operation" means any procedure that involves cutting or 1000
otherwise infiltrating human tissue by mechanical means, including 1001
surgery, laser surgery, ionizing radiation, therapeutic 1002
ultrasound, or the removal of intraocular foreign bodies. 1003
"Operation" does not include the administration of medication by 1004
injection, unless the injection is administered in conjunction 1005
with a procedure infiltrating human tissue by mechanical means 1006
other than the administration of medicine by injection. 1007
"Operation" does not include routine dental restorative 1008
procedures, the scaling of teeth, or extractions of teeth that are 1009
not impacted. 1010

(10) "Tort action" means a civil action for damages for 1011
injury, death, or loss to person or property other than a civil 1012
action for damages for a breach of contract or another agreement 1013
between persons or government entities. 1014

(11) "Volunteer" means an individual who provides any 1015
medical, dental, or other health-care related diagnosis, care, or 1016
treatment without the expectation of receiving and without receipt 1017
of any compensation or other form of remuneration from an indigent 1018
and uninsured person, another person on behalf of an indigent and 1019
uninsured person, any health care facility or location, any 1020
nonprofit health care referral organization, or any other person 1021
or government entity. 1022

(12) "Community control sanction" has the same meaning as in 1023
section 2929.01 of the Revised Code. 1024

(13) "Deep sedation" means a drug-induced depression of 1025
consciousness during which a patient cannot be easily aroused but 1026
responds purposefully following repeated or painful stimulation, a 1027
patient's ability to independently maintain ventilatory function 1028
may be impaired, a patient may require assistance in maintaining a 1029
patent airway and spontaneous ventilation may be inadequate, and 1030
cardiovascular function is usually maintained. 1031

(14) "General anesthesia" means a drug-induced loss of 1032
consciousness during which a patient is not arousable, even by 1033
painful stimulation, the ability to independently maintain 1034
ventilatory function is often impaired, a patient often requires 1035
assistance in maintaining a patent airway, positive pressure 1036
ventilation may be required because of depressed spontaneous 1037
ventilation or drug-induced depression of neuromuscular function, 1038
and cardiovascular function may be impaired. 1039

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 1040
health care professional who is a volunteer and complies with 1041

division (B)(2) of this section is not liable in damages to any 1042
person or government entity in a tort or other civil action, 1043
including an action on a medical, dental, chiropractic, 1044
optometric, or other health-related claim, for injury, death, or 1045
loss to person or property that allegedly arises from an action or 1046
omission of the volunteer in the provision to an indigent and 1047
uninsured person of medical, dental, or other health-related 1048
diagnosis, care, or treatment, including the provision of samples 1049
of medicine and other medical products, unless the action or 1050
omission constitutes willful or wanton misconduct. 1051

(2) To qualify for the immunity described in division (B)(1) 1052
of this section, a health care professional shall do all of the 1053
following prior to providing diagnosis, care, or treatment: 1054

(a) Determine, in good faith, that the indigent and uninsured 1055
person is mentally capable of giving informed consent to the 1056
provision of the diagnosis, care, or treatment and is not subject 1057
to duress or under undue influence; 1058

(b) Inform the person of the provisions of this section, 1059
including notifying the person that, by giving informed consent to 1060
the provision of the diagnosis, care, or treatment, the person 1061
cannot hold the health care professional liable for damages in a 1062
tort or other civil action, including an action on a medical, 1063
dental, chiropractic, optometric, or other health-related claim, 1064
unless the action or omission of the health care professional 1065
constitutes willful or wanton misconduct; 1066

(c) Obtain the informed consent of the person and a written 1067
waiver, signed by the person or by another individual on behalf of 1068
and in the presence of the person, that states that the person is 1069
mentally competent to give informed consent and, without being 1070
subject to duress or under undue influence, gives informed consent 1071
to the provision of the diagnosis, care, or treatment subject to 1072
the provisions of this section. A written waiver under division 1073

(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. 1168

(3) This section does not grant an immunity from tort or 1169
other civil liability to a health care professional, health care 1170
worker, nonprofit health care referral organization, or health 1171
care facility or location for actions that are outside the scope 1172
of authority of health care professionals or health care workers. 1173

(4) This section does not affect any legal responsibility of 1174
a health care professional, health care worker, or nonprofit 1175
health care referral organization to comply with any applicable 1176
law of this state or rule of an agency of this state. 1177

(5) This section does not affect any legal responsibility of 1178
a health care facility or location to comply with any applicable 1179
law of this state, rule of an agency of this state, or local code, 1180
ordinance, or regulation that pertains to or regulates building, 1181
housing, air pollution, water pollution, sanitation, health, fire, 1182
zoning, or safety. 1183

Sec. 2317.54. No hospital, home health agency, ambulatory 1184
surgical facility, or provider of a hospice care program or 1185
pediatric respite care program shall be held liable for a 1186
physician's failure to obtain an informed consent from the 1187
physician's patient prior to a surgical or medical procedure or 1188
course of procedures, unless the physician is an employee of the 1189
hospital, home health agency, ambulatory surgical facility, or 1190
provider of a hospice care program or pediatric respite care 1191
program. 1192

Written consent to a surgical or medical procedure or course 1193
of procedures shall, to the extent that it fulfills all the 1194
requirements in divisions (A), (B), and (C) of this section, be 1195
presumed to be valid and effective, in the absence of proof by a 1196
preponderance of the evidence that the person who sought such 1197
consent was not acting in good faith, or that the execution of the 1198

consent was induced by fraudulent misrepresentation of material 1199
facts, or that the person executing the consent was not able to 1200
communicate effectively in spoken and written English or any other 1201
language in which the consent is written. Except as herein 1202
provided, no evidence shall be admissible to impeach, modify, or 1203
limit the authorization for performance of the procedure or 1204
procedures set forth in such written consent. 1205

(A) The consent sets forth in general terms the nature and 1206
purpose of the procedure or procedures, and what the procedures 1207
are expected to accomplish, together with the reasonably known 1208
risks, and, except in emergency situations, sets forth the names 1209
of the physicians who shall perform the intended surgical 1210
procedures. 1211

(B) The person making the consent acknowledges that such 1212
disclosure of information has been made and that all questions 1213
asked about the procedure or procedures have been answered in a 1214
satisfactory manner. 1215

(C) The consent is signed by the patient for whom the 1216
procedure is to be performed, or, if the patient for any reason 1217
including, but not limited to, competence, minority, or the fact 1218
that, at the latest time that the consent is needed, the patient 1219
is under the influence of alcohol, hallucinogens, or drugs, lacks 1220
legal capacity to consent, by a person who has legal authority to 1221
consent on behalf of such patient in such circumstances, including 1222
either of the following: 1223

(1) The parent, whether the parent is an adult or a minor, of 1224
the parent's minor child; 1225

(2) An adult whom the parent of the minor child has given 1226
written authorization to consent to a surgical or medical 1227
procedure or course of procedures for the parent's minor child. 1228

Any use of a consent form that fulfills the requirements 1229

stated in divisions (A), (B), and (C) of this section has no 1230
effect on the common law rights and liabilities, including the 1231
right of a physician to obtain the oral or implied consent of a 1232
patient to a medical procedure, that may exist as between 1233
physicians and patients on July 28, 1975. 1234

As used in this section the term "hospital" has the same 1235
meaning as in section 2305.113 of the Revised Code; "home health 1236
agency" has the same meaning as in section 5101.61 of the Revised 1237
Code; "ambulatory surgical facility" has the meaning as in 1238
division (A) of section 3702.30 of the Revised Code; and "hospice 1239
care program" ~~has~~ and "pediatric respite care program" have the 1240
same ~~meaning~~ meanings as in section 3712.01 of the Revised Code. 1241
The provisions of this division apply to hospitals, doctors of 1242
medicine, doctors of osteopathic medicine, and doctors of 1243
podiatric medicine. 1244

Sec. 2711.22. (A) Except as otherwise provided in this 1245
section, a written contract between a patient and a hospital or 1246
healthcare provider to settle by binding arbitration any dispute 1247
or controversy arising out of the diagnosis, treatment, or care of 1248
the patient rendered by a hospital or healthcare provider, that is 1249
entered into prior to the diagnosis, treatment, or care of the 1250
patient is valid, irrevocable, and enforceable once the contract 1251
is signed by all parties. The contract remains valid, irrevocable, 1252
and enforceable until or unless the patient or the patient's legal 1253
representative rescinds the contract by written notice within 1254
thirty days of the signing of the contract. A guardian or other 1255
legal representative of the patient may give written notice of the 1256
rescission of the contract if the patient is incapacitated or a 1257
minor. 1258

(B) As used in this section and in sections 2711.23 and 1259
2711.24 of the Revised Code: 1260

(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	1291
regarding a patient;	1292
(c) For each home health agency individually, any other	1293
routine service or activity that the chief administrator of the	1294
home health agency designates as direct care.	1295
(5) "Disqualifying offense" means any of the offenses listed	1296
or described in divisions (A)(3)(a) to (e) of section 109.572 of	1297
the Revised Code.	1298
(6) "Employee" means a person employed by a home health	1299
agency in a full-time, part-time, or temporary position that	1300
involves providing direct care to an individual and a person who	1301
works in such a position due to being referred to a home health	1302
agency by an employment service.	1303
(7) "Home health agency" means a person or government entity,	1304
other than a nursing home, residential care facility, or hospice	1305
care program, <u>or pediatric respite care program</u> , that has the	1306
primary function of providing any of the following services to a	1307
patient at a place of residence used as the patient's home:	1308
(a) Skilled nursing care;	1309
(b) Physical therapy;	1310
(c) Speech-language pathology;	1311
(d) Occupational therapy;	1312
(e) Medical social services;	1313
(f) Home health aide services.	1314
(8) "Home health aide services" means any of the following	1315
services provided by an employee of a home health agency:	1316
(a) Hands-on bathing or assistance with a tub bath or shower;	1317
(b) Assistance with dressing, ambulation, and toileting;	1318
(c) Catheter care but not insertion;	1319

(d) Meal preparation and feeding.	1320
(9) "Hospice care program" has <u>and "pediatric respite care program" have</u> the same meaning <u>meanings</u> as in section 3712.01 of the Revised Code.	1321 1322 1323
(10) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	1324 1325 1326
(11) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	1327 1328
(12) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	1329 1330 1331
(13) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.	1332 1333
(14) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.	1334 1335
(15) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	1336 1337 1338
(16) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.	1339 1340
(17) "Waiver agency" has the same meaning as in section 5111.033 of the Revised Code.	1341 1342
(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:	1343 1344 1345 1346
(1) A review of the databases listed in division (D) of this section reveals any of the following:	1347 1348

(a) That the applicant or employee is included in one or more 1349
of the databases listed in divisions (D)(1) to (5) of this 1350
section; 1351

(b) That there is in the state nurse aide registry 1352
established under section 3721.32 of the Revised Code a statement 1353
detailing findings by the director of health that the applicant or 1354
employee neglected or abused a long-term care facility or 1355
residential care facility resident or misappropriated property of 1356
such a resident; 1357

(c) That the applicant or employee is included in one or more 1358
of the databases, if any, specified in rules adopted under this 1359
section and the rules prohibit the home health agency from 1360
employing an applicant or continuing to employ an employee 1361
included in such a database in a position that involves providing 1362
direct care to an individual. 1363

(2) After the applicant or employee is provided, pursuant to 1364
division (E)(2)(a) of this section, a copy of the form prescribed 1365
pursuant to division (C)(1) of section 109.572 of the Revised Code 1366
and the standard impression sheet prescribed pursuant to division 1367
(C)(2) of that section, the applicant or employee fails to 1368
complete the form or provide the applicant's or employee's 1369
fingerprint impressions on the standard impression sheet. 1370

(3) Except as provided in rules adopted under this section, 1371
the applicant or employee is found by a criminal records check 1372
required by this section to have been convicted of, pleaded guilty 1373
to, or been found eligible for intervention in lieu of conviction 1374
for a disqualifying offense. 1375

(C) Except as provided by division (F) of this section, the 1376
chief administrator of a home health agency shall inform each 1377
applicant of both of the following at the time of the applicant's 1378
initial application for employment or referral to the home health 1379

agency by an employment service for a position that involves 1380
providing direct care to an individual: 1381

(1) That a review of the databases listed in division (D) of 1382
this section will be conducted to determine whether the home 1383
health agency is prohibited by division (B)(1) of this section 1384
from employing the applicant in the position; 1385

(2) That, unless the database review reveals that the 1386
applicant may not be employed in the position, a criminal records 1387
check of the applicant will be conducted and the applicant is 1388
required to provide a set of the applicant's fingerprint 1389
impressions as part of the criminal records check. 1390

(D) As a condition of employing any applicant in a position 1391
that involves providing direct care to an individual, the chief 1392
administrator of a home health agency shall conduct a database 1393
review of the applicant in accordance with rules adopted under 1394
this section. If rules adopted under this section so require, the 1395
chief administrator of a home health agency shall conduct a 1396
database review of an employee in accordance with the rules as a 1397
condition of continuing to employ the employee in a position that 1398
involves providing direct care to an individual. However, the 1399
chief administrator is not required to conduct a database review 1400
of an applicant or employee if division (F) of this section 1401
applies. A database review shall determine whether the applicant 1402
or employee is included in any of the following: 1403

(1) The excluded parties list system maintained by the United 1404
States general services administration pursuant to subpart 9.4 of 1405
the federal acquisition regulation; 1406

(2) The list of excluded individuals and entities maintained 1407
by the office of inspector general in the United States department 1408
of health and human services pursuant to section 1128 of the 1409
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 1410

amended, and section 1156 of the "Social Security Act," 96 Stat. 1411
388 (1982), 42 U.S.C. 1320c-5, as amended; 1412

(3) The registry of MR/DD employees established under section 1413
5123.52 of the Revised Code; 1414

(4) The internet-based sex offender and child-victim offender 1415
database established under division (A)(11) of section 2950.13 of 1416
the Revised Code; 1417

(5) The internet-based database of inmates established under 1418
section 5120.66 of the Revised Code; 1419

(6) The state nurse aide registry established under section 1420
3721.32 of the Revised Code; 1421

(7) Any other database, if any, specified in rules adopted 1422
under this section. 1423

(E)(1) As a condition of employing any applicant in a 1424
position that involves providing direct care to an individual, the 1425
chief administrator of a home health agency shall request the 1426
superintendent of the bureau of criminal identification and 1427
investigation to conduct a criminal records check of the 1428
applicant. If rules adopted under this section so require, the 1429
chief administrator of a home health agency shall request the 1430
superintendent to conduct a criminal records check of an employee 1431
at times specified in the rules as a condition of continuing to 1432
employ the employee in a position that involves providing direct 1433
care to an individual. However, the chief administrator is not 1434
required to request the criminal records check of the applicant or 1435
the employee if division (F) of this section applies or the home 1436
health agency is prohibited by division (B)(1) of this section 1437
from employing the applicant or continuing to employ the employee 1438
in a position that involves providing direct care to an 1439
individual. If an applicant or employee for whom a criminal 1440
records check request is required by this section does not present 1441

proof of having been a resident of this state for the five-year 1442
period immediately prior to the date upon which the criminal 1443
records check is requested or does not provide evidence that 1444
within that five-year period the superintendent has requested 1445
information about the applicant from the federal bureau of 1446
investigation in a criminal records check, the chief administrator 1447
shall request that the superintendent obtain information from the 1448
federal bureau of investigation as a part of the criminal records 1449
check. Even if an applicant or employee for whom a criminal 1450
records check request is required by this section presents proof 1451
that the applicant or employee has been a resident of this state 1452
for that five-year period, the chief administrator may request 1453
that the superintendent include information from the federal 1454
bureau of investigation in the criminal records check. 1455

(2) The chief administrator shall do all of the following: 1456

(a) Provide to each applicant and employee for whom a 1457
criminal records check request is required by this section a copy 1458
of the form prescribed pursuant to division (C)(1) of section 1459
109.572 of the Revised Code and a standard impression sheet 1460
prescribed pursuant to division (C)(2) of that section; 1461

(b) Obtain the completed form and standard impression sheet 1462
from each applicant and employee; 1463

(c) Forward the completed form and standard impression sheet 1464
to the superintendent at the time the chief administrator requests 1465
the criminal records check. 1466

(3) A home health agency shall pay to the bureau of criminal 1467
identification and investigation the fee prescribed pursuant to 1468
division (C)(3) of section 109.572 of the Revised Code for each 1469
criminal records check the agency requests under this section. A 1470
home health agency may charge an applicant a fee not exceeding the 1471
amount the agency pays to the bureau under this section if both of 1472

the following apply: 1473

(a) The home health agency notifies the applicant at the time 1474
of initial application for employment of the amount of the fee and 1475
that, unless the fee is paid, the applicant will not be considered 1476
for employment. 1477

(b) The medicaid program established under Chapter 5111. of 1478
the Revised Code does not reimburse the home health agency for the 1479
fee it pays to the bureau under this section. 1480

(F) Divisions (C) to (E) of this section do not apply with 1481
regard to an applicant or employee if the applicant or employee is 1482
referred to a home health agency by an employment service that 1483
supplies full-time, part-time, or temporary staff for positions 1484
that involve providing direct care to an individual and both of 1485
the following apply: 1486

(1) The chief administrator of the home health agency 1487
receives from the employment service confirmation that a review of 1488
the databases listed in division (D) of this section was conducted 1489
with regard to the applicant or employee. 1490

(2) The chief administrator of the home health agency 1491
receives from the employment service, applicant, or employee a 1492
report of the results of a criminal records check of the applicant 1493
or employee that has been conducted by the superintendent within 1494
the one-year period immediately preceding the following: 1495

(a) In the case of an applicant, the date of the applicant's 1496
referral by the employment service to the home health agency; 1497

(b) In the case of an employee, the date by which the home 1498
health agency would otherwise have to request a criminal records 1499
check of the employee under division (E) of this section. 1500

(G)(1) A home health agency may employ conditionally an 1501
applicant for whom a criminal records check request is required by 1502

this section before obtaining the results of the criminal records 1503
check if the agency is not prohibited by division (B) of this 1504
section from employing the applicant in a position that involves 1505
providing direct care to an individual and either of the following 1506
applies: 1507

(a) The chief administrator of the home health agency 1508
requests the criminal records check in accordance with division 1509
(E) of this section not later than five business days after the 1510
applicant begins conditional employment. 1511

(b) The applicant is referred to the home health agency by an 1512
employment service, the employment service or the applicant 1513
provides the chief administrator of the agency a letter that is on 1514
the letterhead of the employment service, the letter is dated and 1515
signed by a supervisor or another designated official of the 1516
employment service, and the letter states all of the following: 1517

(i) That the employment service has requested the 1518
superintendent to conduct a criminal records check regarding the 1519
applicant; 1520

(ii) That the requested criminal records check is to include 1521
a determination of whether the applicant has been convicted of, 1522
pleaded guilty to, or been found eligible for intervention in lieu 1523
of conviction for a disqualifying offense; 1524

(iii) That the employment service has not received the 1525
results of the criminal records check as of the date set forth on 1526
the letter; 1527

(iv) That the employment service promptly will send a copy of 1528
the results of the criminal records check to the chief 1529
administrator of the home health agency when the employment 1530
service receives the results. 1531

(2) If a home health agency employs an applicant 1532
conditionally pursuant to division (G)(1)(b) of this section, the 1533

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;	1566
(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;	1567 1568 1569 1570
(4) The employment service that requested the criminal records check;	1571 1572
(5) The director of health and the staff of the department of health who monitor a home health agency's compliance with this section;	1573 1574 1575
(6) The director of aging or the director's designee if either of the following apply:	1576 1577
(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;	1578 1579 1580
(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.	1581 1582 1583 1584 1585
(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:	1586 1587 1588 1589
(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a waiver agency;	1590 1591 1592
(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	1593 1594 1595

health agency that also is a waiver agency.	1596
(8) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:	1597 1598
(a) A denial of employment of the applicant or employee;	1599
(b) Employment or unemployment benefits of the applicant or employee;	1600 1601
(c) A civil or criminal action regarding the medicaid program.	1602 1603
(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:	1604 1605 1606 1607 1608
(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.	1609 1610 1611 1612 1613 1614
(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.	1615 1616 1617 1618 1619
(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	1620 1621 1622 1623 1624 1625

disqualifying offense. 1626

(J) The director of health shall adopt rules in accordance 1627
with Chapter 119. of the Revised Code to implement this section. 1628

(1) The rules may do the following: 1629

(a) Require employees to undergo database reviews and 1630
criminal records checks under this section; 1631

(b) If the rules require employees to undergo database 1632
reviews and criminal records checks under this section, exempt one 1633
or more classes of employees from the requirements; 1634

(c) For the purpose of division (D)(7) of this section, 1635
specify other databases that are to be checked as part of a 1636
database review conducted under this section. 1637

(2) The rules shall specify all of the following: 1638

(a) The procedures for conducting database reviews under this 1639
section; 1640

(b) If the rules require employees to undergo database 1641
reviews and criminal records checks under this section, the times 1642
at which the database reviews and criminal records checks are to 1643
be conducted; 1644

(c) If the rules specify other databases to be checked as 1645
part of the database reviews, the circumstances under which a home 1646
health agency is prohibited from employing an applicant or 1647
continuing to employ an employee who is found by a database review 1648
to be included in one or more of those databases; 1649

(d) Circumstances under which a home health agency may employ 1650
an applicant or employee who is found by a criminal records check 1651
required by this section to have been convicted of, pleaded guilty 1652
to, or been found eligible for intervention in lieu of conviction 1653
for a disqualifying offense but meets personal character 1654
standards. 1655

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.	1685
(3) The director shall evaluate all of the following:	1686
(a) Learning opportunities generated by the project;	1687
(b) Training of physicians and advanced practice <u>registered</u> nurses under the project;	1688 1689
(c) Costs of the project;	1690
(d) The extent to which the project met the expected outcomes developed under division (A) of section 3701.924 of the Revised Code.	1691 1692 1693
(4) The director shall assess and review results of the project.	1694 1695
(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.	1696 1697 1698 1699 1700
(B) The director may contract with an entity that has significant experience in assisting physician-led practices <u>led by</u> <u>physicians</u> and advanced practice nurse-led primary care practices <u>led by advanced practice registered nurses</u> in transitioning to the patient centered medical home model of care. The contract shall require the entity to do both of the following:	1701 1702 1703 1704 1705 1706
(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;	1707 1708 1709 1710 1711 1712
(2) Assist the director in identifying necessary financial and operational requirements and any barriers or challenges	1713 1714

associated with transitioning to a patient centered medical home 1715
model of care. 1716

(C) The project established under this section shall begin 1717
not later than the date the first practice enters into a contract 1718
with the director pursuant to section 3701.927 of the Revised Code 1719
and shall cease not later than the date the final report is 1720
submitted pursuant to division (B)(3) of section 3701.929 of the 1721
Revised Code. 1722

(D) The project shall not be operated in a manner that 1723
requires a patient, unless otherwise required by the Revised Code, 1724
to receive a referral from a physician in a practice selected for 1725
inclusion in the pilot project under division (A)(1) of this 1726
section as a condition of being authorized to receive specialized 1727
health care services from an individual licensed or certified 1728
under Title XLVII of the Revised Code to provide those services. 1729

Sec. 3701.924. (A) The patient centered medical home 1730
education advisory group is hereby created for the purpose of 1731
advising the director of health on the implementation and 1732
administration of the patient centered medical home education 1733
program. The advisory group shall develop and provide to the 1734
director a set of expected outcomes for the pilot project. The 1735
advisory group shall consider and provide other recommendations to 1736
the director and complete other duties as the director considers 1737
appropriate. 1738

(B) The advisory group shall consist of the following 1739
members: 1740

(1) The following members appointed by the director of 1741
health: 1742

(a) One individual with expertise in the training and 1743
education of primary care physicians recommended by the dean of 1744

the university of Toledo college of medicine;	1745
(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;	1746 1747 1748
(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;	1749 1750 1751
(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;	1752 1753 1754
(e) Two individuals recommended by the governing board of the Ohio academy of family physicians;	1755 1756
(f) One individual recommended by the governing board of the Ohio chapter of the American college of physicians;	1757 1758
(g) One individual recommended by the governing board of the Ohio chapter of the American academy of pediatrics;	1759 1760
(h) One individual recommended by the governing board of the Ohio osteopathic association;	1761 1762
(i) One individual with expertise in the training and education of advanced practice <u>registered</u> nurses, recommended by the governing board of the Ohio council of deans and directors of baccalaureate and higher degree programs in nursing;	1763 1764 1765 1766
(j) One individual recommended by the governing board of the Ohio nurses association;	1767 1768
(k) One individual recommended by the governing board of the Ohio association of advanced practice nurses;	1769 1770
(l) One individual recommended by the governing board of the Ohio council for home care and hospice;	1771 1772
(m) One individual recommended by the superintendent of	1773

insurance;	1774
(n) An employee of the department of health;	1775
(o) Not more than five additional members who have relevant expertise that the director considers appropriate.	1776 1777
(2) The following members:	1778
(a) The executive director of the state medical board or the director's designee;	1779 1780
(b) The executive director of the board of nursing or the director's designee;	1781 1782
(c) The chancellor of the Ohio board of regents or the chancellor's designee;	1783 1784
(d) The medical assistance director, or the director's designee.	1785 1786
(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 <u>September 10, 2012</u> . If for any reason the member who served immediately prior to the effective date of this section <u>September 10, 2012</u> , 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.	1787 1788 1789 1790 1791 1792 1793 1794 1795 1796 1797 1798
(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.	1799 1800 1801 1802
(3) Vacancies shall be filled in the manner provided for	1803

original appointments. 1804

(D) Members shall serve without compensation, except to the 1805
extent that serving on the advisory group is considered part of 1806
their regular employment duties. 1807

(E) The director may appoint from the members of the advisory 1808
group a chairperson and vice-chairperson. 1809

A majority of the members of the advisory group constitutes a 1810
quorum. A majority of a quorum is necessary for the advisory group 1811
to make any recommendations to the director. 1812

The advisory group shall meet at the call of the director. 1813
The director shall call the advisory group to meet not less than 1814
annually to discuss or consider recommendations to the director on 1815
the administration of the patient centered medical home education 1816
program. 1817

(F) Sections 101.82 to 101.87 of the Revised Code do not 1818
apply to the advisory group. 1819

Sec. 3701.925. (A) The patient centered medical home 1820
education advisory group shall accept applications for inclusion 1821
in the patient centered medical home education pilot project from 1822
primary care practices with educational affiliations, as 1823
determined by the advisory group, with one or more of the 1824
following: 1825

(1) The Boonshoft school of medicine at Wright state 1826
university; 1827

(2) The university of Toledo college of medicine; 1828

(3) The northeast Ohio medical university; 1829

(4) The Ohio university college of osteopathic medicine; 1830

(5) The college of nursing at the university of Toledo; 1831

(6) The Wright state university college of nursing and 1832

health;	1833
(7) The college of nursing at Kent state university;	1834
(8) The university of Akron college of nursing;	1835
(9) The school of nursing at Ohio university.	1836
(B)(1) Subject to division (C)(1) of this section, the	1837
advisory group shall recommend to the director of health for	1838
inclusion in the pilot project not less than the following number	1839
of <u>primary care</u> practices led by physicians:	1840
(a) Ten practices affiliated with the Boonshoft school of	1841
medicine at Wright state university;	1842
(b) Ten practices affiliated with the university of Toledo	1843
college of medicine;	1844
(c) Ten practices affiliated with the northeast Ohio medical	1845
university;	1846
(d) Ten practices affiliated with the centers for osteopathic	1847
research and education of the Ohio university college of	1848
osteopathic medicine.	1849
(2) Subject to division (C)(2) of this section, the advisory	1850
group shall recommend to the director of health for inclusion in	1851
the pilot project not less than the following number of primary	1852
care practices led by advanced practice <u>registered</u> nurses:	1853
(a) One practice affiliated with the college of nursing at	1854
the university of Toledo;	1855
(b) One practice affiliated with the Wright state university	1856
college of nursing and health;	1857
(c) One practice affiliated with the college of nursing at	1858
Kent state university or the university of Akron college of	1859
nursing;	1860
(d) One practice affiliated with the school of nursing at	1861

Ohio university. 1862

(C)(1) All of the following apply with respect to the 1863
recommendation of ~~physician-led practices~~ under division (B)(1) of 1864
this section of practices led by physicians: 1865

(a) The advisory group shall strive to recommend 1866
~~physician-led~~ practices in such a manner that the pilot project 1867
includes a diverse range of primary care specialties, including 1868
practices specializing in pediatrics, geriatrics, general internal 1869
medicine, or family medicine. 1870

(b) When evaluating an application, the advisory group shall 1871
consider the percentage of patients in the ~~physician-led~~ practice 1872
who are part of a medically underserved population, including 1873
medicaid recipients and individuals without health insurance. 1874

(c) The advisory group shall recommend not fewer than six 1875
practices that serve rural areas of this state, as those areas are 1876
determined by the advisory group. 1877

(d) A member of the advisory group shall abstain from 1878
participating in any vote taken regarding the recommendation of a 1879
~~physician-led~~ practice if the member would receive any financial 1880
benefit from having the practice included in the pilot project. 1881

(2) All of the following apply with respect to the 1882
recommendation of ~~advanced practice nurse-led primary care~~ 1883
~~practices~~ under division (B)(2) of this section of practices led 1884
by advanced practice registered nurses: 1885

(a) When evaluating an application, the advisory group shall 1886
consider the percentage of patients in the ~~advanced practice~~ 1887
~~nurse-led primary care~~ practice who are part of a medically 1888
underserved population, including medicaid recipients and 1889
individuals without health insurance. 1890

(b) If the advisory group determines that it has not received 1891

an application from a sufficiently qualified ~~advanced practice~~ 1892
~~nurse led primary care~~ practice affiliated with a particular 1893
institution specified in division (B)(2) of this section, the 1894
advisory group shall make the recommendations required under that 1895
division in such a manner that the greatest possible number of 1896
those institutions are recommended to be included in the pilot 1897
project. To be recommended in this manner, a practice remains 1898
subject to the eligibility requirements specified in division (B) 1899
of section 3701.926 of the Revised Code. As specified in division 1900
(B)(2) of this section, the number of practices recommended for 1901
inclusion in the pilot project shall be at least four. 1902

(c) A member of the advisory group shall abstain from 1903
participating in any vote taken regarding the recommendation of ~~an~~ 1904
~~advanced practice nurse led primary care~~ a practice if the member 1905
would receive any financial benefit from having the practice 1906
included in the pilot project. 1907

(D) The advisory group shall provide a copy to the director 1908
of health copies of all applications received under this section 1909
~~to the director of health after making recommendations under~~ 1910
~~division (B)(1) of this section.~~ 1911

Sec. 3701.926. (A) To be eligible for inclusion in the 1912
patient centered medical home education pilot project, a 1913
~~physician led~~ primary care practice led by physicians shall meet 1914
all of the following requirements: 1915

(1) Consist of physicians who are board-certified in family 1916
medicine, general pediatrics, or internal medicine, as those 1917
designations are issued by a medical specialty certifying board 1918
recognized by the American board of medical specialties or 1919
American osteopathic association; 1920

(2) Be capable of adapting the practice during the period in 1921
which the practice participates in the patient centered medical 1922

home education pilot project in such a manner that the practice is 1923
fully compliant with the minimum standards for operation of a 1924
patient centered medical home, as those standards are established 1925
by the director of health; 1926

(3) Have submitted an application to participate in the 1927
project established under former section 185.05 of the Revised 1928
Code not later than April 15, 2011. 1929

(4) Meet any other criteria established by the director as 1930
part of the selection process. 1931

(B) To be eligible for inclusion in the pilot project, ~~an~~ 1932
~~advanced practice nurse led~~ a primary care practice led by 1933
advanced practice registered nurses shall meet all of the 1934
following requirements: 1935

(1) Consist of advanced practice registered nurses, each of 1936
whom meets all of the following requirements: 1937

(a) Holds a certificate to prescribe issued under section 1938
4723.48 of the Revised Code; 1939

(b) Is board-certified as a family nurse practitioner or 1940
adult nurse practitioner by the American academy of nurse 1941
practitioners or American nurses credentialing center, 1942
board-certified as a geriatric nurse practitioner or women's 1943
health nurse practitioner by the American nurses credentialing 1944
center, or is board-certified as a pediatric nurse practitioner by 1945
the American nurses credentialing center or pediatric nursing 1946
certification board; 1947

(c) Collaborates under a standard care arrangement with a 1948
physician with board certification as specified in division (A)(1) 1949
of this section and who is an active participant on the health 1950
care team. 1951

(2) Be capable of adapting the ~~primary care~~ practice during 1952

the period in which the practice participates in the project in 1953
such a manner that the practice is fully compliant with the 1954
minimum standards for operation of a patient centered medical 1955
home, as those standards are established by the director; 1956

(3) Have submitted an application to participate in the 1957
project established under former section 185.05 of the Revised 1958
Code not later than April 15, 2011. 1959

(4) Meet any other criteria established by the director as 1960
part of the selection process. 1961

Sec. 3701.927. The director of health shall enter into a 1962
contract with each primary care practice selected by the director 1963
for inclusion in the patient centered medical home education pilot 1964
project. The contract shall specify the terms and conditions for 1965
inclusion in the pilot project, including a requirement that the 1966
practice provide comprehensive, coordinated primary care services 1967
to patients and serve as the patients' medical home. The contract 1968
shall also require the practice to participate in the training of 1969
medical students, advanced practice registered nursing students, 1970
physician assistant students, and primary care medical residents. 1971

The director may include as part of the contract any other 1972
requirements necessary for a practice to be included in the 1973
project, including requirements regarding the number of patients 1974
served who are medicaid recipients and individuals without health 1975
insurance. 1976

Sec. 3701.928. (A) The director of health or, at the 1977
director's request, the patient centered medical home education 1978
advisory group may work with medical, nursing, and physician 1979
assistant schools or programs in this state to develop appropriate 1980
curricula designed to prepare primary care physicians, advanced 1981
practice registered nurses, and physician assistants to practice 1982

within the patient centered medical home model of care. In 1983
developing the curricula, the director or advisory group and the 1984
schools or programs shall include all of the following: 1985

(1) Components for use at the medical student, advanced 1986
practice registered nursing student, physician assistant student, 1987
and primary care resident training levels; 1988

(2) Components that reflect, as appropriate, the special 1989
needs of patients who are part of a medically underserved 1990
population, including medicaid recipients, individuals without 1991
health insurance, individuals with disabilities, individuals with 1992
chronic health conditions, and individuals within racial or ethnic 1993
minority groups; 1994

(3) Components that include training in interdisciplinary 1995
cooperation between physicians, advanced practice registered 1996
nurses, and physician assistants in the patient centered medical 1997
home model of care, including curricula ensuring that a common 1998
conception of a patient centered medical home model of care is 1999
provided to medical students, advanced practice registered nurses, 2000
physician assistants, and primary care residents. 2001

(B) The director or advisory group may work in association 2002
with the medical, nursing, and physician assistant schools or 2003
programs to identify funding sources to ensure that the curricula 2004
developed under division (A) of this section are accessible to 2005
medical students, advanced practice registered nursing students, 2006
physician assistant students, and primary care residents. The 2007
director or advisory group shall consider scholarship options or 2008
incentives provided to students in addition to those provided 2009
under the choose Ohio first scholarship program operated under 2010
section 3333.61 of the Revised Code. 2011

Sec. 3701.929. (A) If the director of health establishes the 2012
patient centered medical home education pilot project, the 2013

director shall prepare reports of its findings and recommendations 2014
from the pilot project. Each report shall include an evaluation of 2015
the learning opportunities generated by the pilot project, the 2016
physicians and advanced practice registered nurses trained in the 2017
pilot project, the costs of the pilot project, and the extent to 2018
which the pilot project has met the set of expected outcomes 2019
developed under division (A) of section 3701.924 of the Revised 2020
Code. 2021

(B) The reports shall be completed in accordance with the 2022
following schedule: 2023

(1) An interim report not later than six months after the 2024
date on which the last primary care practice selected to 2025
participate in the project enters into a contract with the 2026
department of health pursuant to section 3701.927 of the Revised 2027
Code; 2028

(2) An update of the interim report not later than one year 2029
after the date specified under division (B)(1) of this section; 2030

(3) A final report not later than two years after the date 2031
specified under division (B)(1) of this section. 2032

(C) The director shall submit each of the reports to the 2033
governor and, in accordance with section 101.68 of the Revised 2034
Code, to the general assembly. 2035

Sec. 3712.01. As used in this chapter: 2036

(A) "Hospice care program" means a coordinated program of 2037
home, outpatient, and inpatient care and services that is operated 2038
by a person or public agency and that provides the following care 2039
and services to hospice patients, including services as indicated 2040
below to hospice patients' families, through a medically directed 2041
interdisciplinary team, under interdisciplinary plans of care 2042
established pursuant to section 3712.06 of the Revised Code, in 2043

order to meet the physical, psychological, social, spiritual, and	2044
other special needs that are experienced during the final stages	2045
of illness, dying, and bereavement:	2046
(1) Nursing care by or under the supervision of a registered	2047
nurse;	2048
(2) Physical, occupational, or speech or language therapy,	2049
unless waived by the department of health pursuant to rules	2050
adopted under division (A) of section 3712.03 of the Revised Code;	2051
(3) Medical social services by a social worker under the	2052
direction of a physician;	2053
(4) Services of a home health aide;	2054
(5) Medical supplies, including drugs and biologicals, and	2055
the use of medical appliances;	2056
(6) Physician's services;	2057
(7) Short-term inpatient care, including both palliative and	2058
respite care and procedures;	2059
(8) Counseling for hospice patients and hospice patients'	2060
families;	2061
(9) Services of volunteers under the direction of the	2062
provider of the hospice care program;	2063
(10) Bereavement services for hospice patients' families.	2064
<u>"Hospice care program" does not include a pediatric respite</u>	2065
<u>care program.</u>	2066
(B) "Hospice patient" means a patient, <u>other than a pediatric</u>	2067
<u>respite care patient</u> , who has been diagnosed as terminally ill,	2068
has an anticipated life expectancy of six months or less, and has	2069
voluntarily requested and is receiving care from a person or	2070
public agency licensed under this chapter to provide a hospice	2071
care program.	2072

(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 2104
independent social worker. 2105

(J) "Pediatric respite care program" means a program operated 2106
by a person or public agency that provides inpatient respite care 2107
and related services, including all of the following services, 2108
only to pediatric respite care patients and, as indicated below, 2109
pediatric respite care patients' families, in order to meet the 2110
physical, psychological, social, spiritual, and other special 2111
needs that are experienced during or leading up to the final 2112
stages of illness, dying, and bereavement: 2113

(1) Short-term inpatient care, including both palliative and 2114
respite care and procedures; 2115

(2) Nursing care by or under the supervision of a registered 2116
nurse; 2117

(3) Physician's services; 2118

(4) Medical social services by a social worker under the 2119
direction of a physician; 2120

(5) Medical supplies, including drugs and biologicals, and 2121
the use of medical appliances; 2122

(6) Counseling for pediatric respite care patients and 2123
pediatric respite care patients' families; 2124

(7) Bereavement services for respite care patients' families. 2125

"Pediatric respite care program" does not include a hospice 2126
care program. 2127

(K) "Pediatric respite care patient" means a patient, other 2128
than a hospice patient, who is less than twenty-seven years of age 2129
and to whom all of the following conditions apply: 2130

(1) The patient has been diagnosed with a disease or 2131
condition that is life-threatening and is expected to shorten the 2132
life expectancy that would have applied to the patient absent the 2133

patient's diagnosis, regardless of whether the patient is 2134
terminally ill. 2135

(2) The diagnosis described in division (K)(1) of this 2136
section occurred while the patient was less than eighteen years of 2137
age. 2138

(3) The patient has voluntarily requested and is receiving 2139
care from a person or public agency licensed under this chapter to 2140
provide a pediatric respite care program. 2141

(L) "Pediatric respite care patient's family" means a 2142
pediatric respite care patient's family members, including a 2143
spouse, brother, sister, child, or parent, and any other relative 2144
or individual who has significant personal ties to the patient and 2145
who is designated as a member of the patient's family by mutual 2146
agreement of the patient, the relative or individual, and the 2147
patient's interdisciplinary team. 2148

Sec. 3712.03. (A) In accordance with Chapter 119. of the 2149
Revised Code, the director of health shall adopt, and may amend 2150
and rescind, rules: 2151

(1) Providing for the licensing of persons or public agencies 2152
providing hospice care programs within this state by the 2153
department of health and for the suspension and revocation of 2154
licenses; 2155

(2) Establishing a license fee and license renewal fee for 2156
hospice care programs, neither of which shall, except as provided 2157
in division (B) of this section, exceed six hundred dollars. The 2158
fees shall cover the three-year period during which an existing 2159
license is valid as provided in division (B) of section 3712.04 of 2160
the Revised Code. 2161

(3) Establishing an inspection fee for hospice care programs 2162
not to exceed, except as provided in division (B) of this section, 2163

one thousand seven hundred fifty dollars;	2164
(4) Establishing requirements for hospice care program facilities and services;	2165 2166
(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;	2167 2168 2169 2170 2171 2172
(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;	2173 2174 2175 2176 2177
(7) Establishing interpretive guidelines for each rule <u>adopted under this section.</u>	2178 2179
(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.	2180 2181 2182 2183
(C) The department of health shall:	2184
(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;	2185 2186 2187
(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	2188 2189 2190
(3) Implement and enforce <u>provisions of</u> this chapter and rules adopted under it <u>as such provisions apply to hospice care programs.</u>	2191 2192 2193

Sec. 3712.031. (A) In accordance with Chapter 119. of the 2194
Revised Code, the director of health shall adopt, and may amend 2195
and rescind, rules: 2196

(1) Providing for the licensing of persons or public agencies 2197
providing pediatric respite care programs within this state by the 2198
department of health and for the suspension and revocation of 2199
licenses; 2200

(2) Establishing a license fee and license renewal fee for 2201
pediatric respite care programs, neither of which shall, except as 2202
provided in division (B) of this section, exceed six hundred 2203
dollars. The fees shall cover the three-year period during which 2204
an existing license is valid as provided in division (B) of 2205
section 3712.041 of the Revised Code. 2206

(3) Establishing an inspection fee not to exceed, except as 2207
provided in division (B) of this section, one thousand seven 2208
hundred fifty dollars; 2209

(4) Establishing requirements for pediatric respite care 2210
program facilities and services; 2211

(5) Providing for the granting of licenses to provide 2212
pediatric respite care programs to persons and public agencies 2213
that are accredited or certified to provide such programs by an 2214
entity whose standards for accreditation or certification equal or 2215
exceed those provided for licensure under this chapter and rules 2216
adopted under it; 2217

(6) Establishing interpretive guidelines for each rule 2218
adopted under this section. 2219

(B) Subject to the approval of the controlling board, the 2220
director of health may establish fees in excess of the maximum 2221
amounts specified in this section, provided that the fees do not 2222
exceed those amounts by greater than fifty per cent. 2223

<u>(C) The department of health shall:</u>	2224
<u>(1) Grant, suspend, and revoke licenses for pediatric respite care programs in accordance with this chapter and rules adopted under it;</u>	2225
	2226
	2227
<u>(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;</u>	2228
	2229
<u>and</u>	2230
	2231
<u>(3) Implement and enforce provisions of this chapter and rules adopted under it as such provisions apply to pediatric respite care programs.</u>	2232
	2233
	2234
 <u>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.</u>	2235
	2236
	2237
	2238
	2239
	2240
	2241
	2242
<u>The department shall grant a license to the applicant if the applicant is in compliance with this chapter and rules adopted under it.</u>	2243
	2244
	2245
<u>(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.</u>	2246
	2247
	2248
	2249
	2250
	2251
<u>(C) Subject to Chapter 119. of the Revised Code, the department may suspend or revoke a license if the licensee made</u>	2252
	2253

any material misrepresentation in the application for the license 2254
or no longer meets the requirements of this chapter or rules 2255
adopted under it. 2256

Sec. 3712.051. (A) As used in this division, "person" does 2257
not include a member of an interdisciplinary team, as defined in 2258
section 3712.01 of the Revised Code, or any individual who is 2259
employed by a person or public agency licensed under section 2260
3712.041 of the Revised Code. 2261

Except as provided in division (B) of this section, no person 2262
or public agency, other than a person or public agency licensed 2263
pursuant to section 3712.041 of the Revised Code, shall hold 2264
itself out as providing a pediatric respite care program, or 2265
provide a pediatric respite care program, or use the term 2266
"pediatric respite care program" or any term containing "pediatric 2267
respite care" to describe or refer to a health program, facility, 2268
or agency. 2269

(B) Division (A) of this section does not apply to any of the 2270
following: 2271

(1) A hospital; 2272

(2) A nursing home or residential care facility, as those 2273
terms are defined in section 3721.01 of the Revised Code; 2274

(3) A home health agency, if it provides services under 2275
contract with a person or public agency providing a pediatric 2276
respite care program licensed under section 3712.041 of the 2277
Revised Code; 2278

(4) A regional, state, or national nonprofit organization 2279
whose members are providers of pediatric respite care programs, 2280
individuals interested in pediatric respite care programs, or 2281
both, as long as the organization does not provide or represent 2282
that it provides pediatric respite care programs; 2283

<u>(5) A person or government entity certified under section</u>	2284
<u>5123.161 of the Revised Code as a supported living provider;</u>	2285
<u>(6) A residential facility licensed under section 5123.19 of</u>	2286
<u>the Revised Code;</u>	2287
<u>(7) A respite care home certified under section 5126.05 of</u>	2288
<u>the Revised Code;</u>	2289
<u>(8) A person providing respite care under a family support</u>	2290
<u>services program established under section 5126.11 of the Revised</u>	2291
<u>Code;</u>	2292
<u>(9) A person or government entity providing respite care</u>	2293
<u>under a medicaid waiver component that the department of</u>	2294
<u>developmental disabilities administers pursuant to section</u>	2295
<u>5111.871 of the Revised Code.</u>	2296
<u>(C) The department of health shall petition the court of</u>	2297
<u>common pleas of any county in which a person or public agency,</u>	2298
<u>without a license granted under section 3712.041 of the Revised</u>	2299
<u>Code, is holding itself out as providing a pediatric respite care</u>	2300
<u>program, is providing a pediatric respite care program, or is</u>	2301
<u>representing a health program, facility, or agency as a pediatric</u>	2302
<u>respite care program, for an order enjoining that person or public</u>	2303
<u>agency from conducting those activities without a license. The</u>	2304
<u>court has jurisdiction to grant injunctive relief upon a showing</u>	2305
<u>that the respondent named in the petition is conducting those</u>	2306
<u>activities without a license.</u>	2307
<u>Any person or public agency may request the department to</u>	2308
<u>petition the court for injunctive relief under this division, and</u>	2309
<u>the department shall do so if it determines that the person or</u>	2310
<u>public agency named in the request is violating division (A) of</u>	2311
<u>this section.</u>	2312
<u>Sec. 3712.061. (A) Any person or public agency licensed under</u>	2313

section 3712.041 of the Revised Code to provide a pediatric 2314
respice care program shall do all of the following: 2315

(1) Provide a planned and continuous pediatric respice care 2316
program, the medical components of which shall be under the 2317
direction of a physician; 2318

(2) Ensure that care is available twenty-four hours a day and 2319
seven days a week; 2320

(3) Establish an interdisciplinary plan of care for each 2321
pediatric respice care patient and the patient's family that: 2322

(a) Is coordinated by one designated individual who shall 2323
ensure that all components of the plan of care are addressed and 2324
implemented; 2325

(b) Addresses maintenance of patient-family participation in 2326
decision making; and 2327

(c) Is reviewed by the patient's attending physician and by 2328
the patient's interdisciplinary team immediately prior to or on 2329
admission to each session of respice care. 2330

(4) Have an interdisciplinary team or teams that provide or 2331
supervise the provision of pediatric respice care program services 2332
and establish the policies governing the provision of the 2333
services; 2334

(5) Maintain central clinical records on all pediatric 2335
respice care patients under its care. 2336

(B) A provider of a pediatric respice care program may 2337
arrange for another person or public agency to furnish a component 2338
or components of the pediatric respice care program pursuant to a 2339
written contract. When a provider of a pediatric respice care 2340
program arranges for a home health agency to furnish a component 2341
or components of the pediatric respice care program to its 2342
patient, the care shall be provided by a home health agency 2343

pursuant to a written contract under which: 2344

(1) The provider of a pediatric respite care program 2345
furnishes to the contractor a copy of the pediatric respite care 2346
patient's interdisciplinary plan of care that is established under 2347
division (A)(3) of this section and specifies the care that is to 2348
be furnished by the contractor; 2349

(2) The regimen described in the established plan of care is 2350
continued while the pediatric respite care patient receives care 2351
from the contractor, subject to the patient's needs, and with 2352
approval of the coordinator of the interdisciplinary team 2353
designated pursuant to division (A)(3)(a) of this section; 2354

(3) All care, treatment, and services furnished by the 2355
contractor are entered into the pediatric respite care patient's 2356
medical record; 2357

(4) The designated coordinator of the interdisciplinary team 2358
ensures conformance with the established plan of care; and 2359

(5) A copy of the contractor's medical record and discharge 2360
summary is retained as part of the pediatric respite care 2361
patient's medical record. 2362

Sec. 3712.09. (A) As used in this section: 2363

(1) "Applicant" means a person who is under final 2364
consideration for employment with a hospice care program or 2365
pediatric respite care program in a full-time, part-time, or 2366
temporary position that involves providing direct care to an older 2367
adult or pediatric respite care patient. "Applicant" does not 2368
include a person who provides direct care as a volunteer without 2369
receiving or expecting to receive any form of remuneration other 2370
than reimbursement for actual expenses. 2371

(2) "Criminal records check" has the same meaning as in 2372
section 109.572 of the Revised Code. 2373

(3) "Older adult" means a person age sixty or older. 2374

(B)(1) Except as provided in division (I) of this section, 2375
the chief administrator of a hospice care program or pediatric 2376
respite care program shall request that the superintendent of the 2377
bureau of criminal identification and investigation conduct a 2378
criminal records check of each applicant. If an applicant for whom 2379
a criminal records check request is required under this division 2380
does not present proof of having been a resident of this state for 2381
the five-year period immediately prior to the date the criminal 2382
records check is requested or provide evidence that within that 2383
five-year period the superintendent has requested information 2384
about the applicant from the federal bureau of investigation in a 2385
criminal records check, the chief administrator shall request that 2386
the superintendent obtain information from the federal bureau of 2387
investigation as part of the criminal records check of the 2388
applicant. Even if an applicant for whom a criminal records check 2389
request is required under this division presents proof of having 2390
been a resident of this state for the five-year period, the chief 2391
administrator may request that the superintendent include 2392
information from the federal bureau of investigation in the 2393
criminal records check. 2394

(2) A person required by division (B)(1) of this section to 2395
request a criminal records check shall do both of the following: 2396

(a) Provide to each applicant for whom a criminal records 2397
check request is required under that division a copy of the form 2398
prescribed pursuant to division (C)(1) of section 109.572 of the 2399
Revised Code and a standard fingerprint impression sheet 2400
prescribed pursuant to division (C)(2) of that section, and obtain 2401
the completed form and impression sheet from the applicant; 2402

(b) Forward the completed form and impression sheet to the 2403
superintendent of the bureau of criminal identification and 2404
investigation. 2405

(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 2438
circumstances described in division (I)(2) of this section, a 2439
hospice care program or pediatric respite care program may employ 2440
conditionally an applicant who has been referred to the hospice 2441
care program or pediatric respite care program by an employment 2442
service that supplies full-time, part-time, or temporary staff for 2443
positions involving the direct care of older adults or pediatric 2444
respite care patients and for whom, pursuant to that division, a 2445
criminal records check is not required under division (B) of this 2446
section. 2447

(b) A hospice care program or pediatric respite care program 2448
that employs an individual conditionally under authority of 2449
division (C)(2)(a) of this section shall terminate the 2450
individual's employment if the results of the criminal records 2451
check requested under division (B) of this section or described in 2452
division (I)(2) of this section, other than the results of any 2453
request for information from the federal bureau of investigation, 2454
are not obtained within the period ending thirty days after the 2455
date the request is made. Regardless of when the results of the 2456
criminal records check are obtained, if the results indicate that 2457
the individual has been convicted of or pleaded guilty to any of 2458
the offenses listed or described in division (C)(1) of this 2459
section, the program shall terminate the individual's employment 2460
unless the program chooses to employ the individual pursuant to 2461
division (F) of this section. Termination of employment under this 2462
division shall be considered just cause for discharge for purposes 2463
of division (D)(2) of section 4141.29 of the Revised Code if the 2464
individual makes any attempt to deceive the program about the 2465
individual's criminal record. 2466

(D)(1) Each hospice care program or pediatric respite care 2467
program shall pay to the bureau of criminal identification and 2468
investigation the fee prescribed pursuant to division (C)(3) of 2469

section 109.572 of the Revised Code for each criminal records 2470
check conducted pursuant to a request made under division (B) of 2471
this section. 2472

(2) A hospice care program or pediatric respite care program 2473
may charge an applicant a fee not exceeding the amount the program 2474
pays under division (D)(1) of this section. A program may collect 2475
a fee only if both of the following apply: 2476

(a) The program notifies the person at the time of initial 2477
application for employment of the amount of the fee and that, 2478
unless the fee is paid, the person will not be considered for 2479
employment; 2480

(b) The medical assistance program established under Chapter 2481
5111. of the Revised Code does not reimburse the program the fee 2482
it pays under division (D)(1) of this section. 2483

(E) The report of a criminal records check conducted pursuant 2484
to a request made under this section is not a public record for 2485
the purposes of section 149.43 of the Revised Code and shall not 2486
be made available to any person other than the following: 2487

(1) The individual who is the subject of the criminal records 2488
check or the individual's representative; 2489

(2) The chief administrator of the program requesting the 2490
criminal records check or the administrator's representative; 2491

(3) The administrator of any other facility, agency, or 2492
program that provides direct care to older adults or pediatric 2493
respite care patients that is owned or operated by the same entity 2494
that owns or operates the hospice care program or pediatric 2495
respite care program; 2496

(4) A court, hearing officer, or other necessary individual 2497
involved in a case dealing with a denial of employment of the 2498
applicant or dealing with employment or unemployment benefits of 2499

the applicant; 2500

(5) Any person to whom the report is provided pursuant to, 2501
and in accordance with, division (I)(1) or (2) of this section. 2502

(F) The director of health shall adopt rules in accordance 2503
with Chapter 119. of the Revised Code to implement this section. 2504
The rules shall specify circumstances under which a hospice care 2505
program or pediatric respite care program may employ a person who 2506
has been convicted of or pleaded guilty to an offense listed or 2507
described in division (C)(1) of this section but meets personal 2508
character standards set by the director. 2509

(G) The chief administrator of a hospice care program or 2510
pediatric respite care program shall inform each individual, at 2511
the time of initial application for a position that involves 2512
providing direct care to an older adult or pediatric respite care 2513
patient, that the individual is required to provide a set of 2514
fingerprint impressions and that a criminal records check is 2515
required to be conducted if the individual comes under final 2516
consideration for employment. 2517

(H) In a tort or other civil action for damages that is 2518
brought as the result of an injury, death, or loss to person or 2519
property caused by an individual who a hospice care program or 2520
pediatric respite care program employs in a position that involves 2521
providing direct care to older adults or pediatric respite care 2522
patients, all of the following shall apply: 2523

(1) If the program employed the individual in good faith and 2524
reasonable reliance on the report of a criminal records check 2525
requested under this section, the program shall not be found 2526
negligent solely because of its reliance on the report, even if 2527
the information in the report is determined later to have been 2528
incomplete or inaccurate; 2529

(2) If the program employed the individual in good faith on a 2530

conditional basis pursuant to division (C)(2) of this section, the 2531
program shall not be found negligent solely because it employed 2532
the individual prior to receiving the report of a criminal records 2533
check requested under this section; 2534

(3) If the program in good faith employed the individual 2535
according to the personal character standards established in rules 2536
adopted under division (F) of this section, the program shall not 2537
be found negligent solely because the individual prior to being 2538
employed had been convicted of or pleaded guilty to an offense 2539
listed or described in division (C)(1) of this section. 2540

(I)(1) The chief administrator of a hospice care program or 2541
pediatric respite care program is not required to request that the 2542
superintendent of the bureau of criminal identification and 2543
investigation conduct a criminal records check of an applicant if 2544
the applicant has been referred to the program by an employment 2545
service that supplies full-time, part-time, or temporary staff for 2546
positions involving the direct care of older adults or pediatric 2547
respite care patients and both of the following apply: 2548

(a) The chief administrator receives from the employment 2549
service or the applicant a report of the results of a criminal 2550
records check regarding the applicant that has been conducted by 2551
the superintendent within the one-year period immediately 2552
preceding the applicant's referral; 2553

(b) The report of the criminal records check demonstrates 2554
that the person has not been convicted of or pleaded guilty to an 2555
offense listed or described in division (C)(1) of this section, or 2556
the report demonstrates that the person has been convicted of or 2557
pleaded guilty to one or more of those offenses, but the hospice 2558
care program or pediatric respite care program chooses to employ 2559
the individual pursuant to division (F) of this section. 2560

(2) The chief administrator of a hospice care program or 2561

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; 2594
on each subsequent offense the person is guilty of a misdemeanor 2595
of the first degree. 2596

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 2597
3721.99 of the Revised Code: 2598

(1)(a) "Home" means an institution, residence, or facility 2599
that provides, for a period of more than twenty-four hours, 2600
whether for a consideration or not, accommodations to three or 2601
more unrelated individuals who are dependent upon the services of 2602
others, including a nursing home, residential care facility, home 2603
for the aging, and a veterans' home operated under Chapter 5907. 2604
of the Revised Code. 2605

(b) "Home" also means both of the following: 2606

(i) Any facility that a person, as defined in section 3702.51 2607
of the Revised Code, proposes for certification as a skilled 2608
nursing facility or nursing facility under Title XVIII or XIX of 2609
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 2610
as amended, and for which a certificate of need, other than a 2611
certificate to recategorize hospital beds as described in section 2612
3702.521 of the Revised Code or division (R)(7)(d) of the version 2613
of section 3702.51 of the Revised Code in effect immediately prior 2614
to April 20, 1995, has been granted to the person under sections 2615
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 2616

(ii) A county home or district home that is or has been 2617
licensed as a residential care facility. 2618

(c) "Home" does not mean any of the following: 2619

(i) Except as provided in division (A)(1)(b) of this section, 2620
a public hospital or hospital as defined in section 3701.01 or 2621
5122.01 of the Revised Code; 2622

(ii) A residential facility as defined in section 5119.22 of 2623

the Revised Code;	2624
(iii) A residential facility as defined in section 5123.19 of the Revised Code;	2625 2626
(iv) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;	2627 2628
(v) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	2629 2630
(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code;	2631 2632 2633
(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;	2634 2635 2636
(viii) <u>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;</u>	2637 2638 2639
<u>(ix)</u> A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program 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;	2640 2641 2642 2643 2644 2645 2646 2647 2648 2649
(ix) <u>(x)</u> A county home or district home that has never been licensed as a residential care facility.	2650 2651
(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	2652 2653

operator as a parent, grandparent, child, grandchild, brother, 2654
sister, niece, nephew, aunt, uncle, or as the child of an aunt or 2655
uncle. 2656

(3) "Mental impairment" does not mean mental illness as 2657
defined in section 5122.01 of the Revised Code or mental 2658
retardation as defined in section 5123.01 of the Revised Code. 2659

(4) "Skilled nursing care" means procedures that require 2660
technical skills and knowledge beyond those the untrained person 2661
possesses and that are commonly employed in providing for the 2662
physical, mental, and emotional needs of the ill or otherwise 2663
incapacitated. "Skilled nursing care" includes, but is not limited 2664
to, the following: 2665

(a) Irrigations, catheterizations, application of dressings, 2666
and supervision of special diets; 2667

(b) Objective observation of changes in the patient's 2668
condition as a means of analyzing and determining the nursing care 2669
required and the need for further medical diagnosis and treatment; 2670

(c) Special procedures contributing to rehabilitation; 2671

(d) Administration of medication by any method ordered by a 2672
physician, such as hypodermically, rectally, or orally, including 2673
observation of the patient after receipt of the medication; 2674

(e) Carrying out other treatments prescribed by the physician 2675
that involve a similar level of complexity and skill in 2676
administration. 2677

(5)(a) "Personal care services" means services including, but 2678
not limited to, the following: 2679

(i) Assisting residents with activities of daily living; 2680

(ii) Assisting residents with self-administration of 2681
medication, in accordance with rules adopted under section 3721.04 2682
of the Revised Code; 2683

(iii) Preparing special diets, other than complex therapeutic 2684
diets, for residents pursuant to the instructions of a physician 2685
or a licensed dietitian, in accordance with rules adopted under 2686
section 3721.04 of the Revised Code. 2687

(b) "Personal care services" does not include "skilled 2688
nursing care" as defined in division (A)(4) of this section. A 2689
facility need not provide more than one of the services listed in 2690
division (A)(5)(a) of this section to be considered to be 2691
providing personal care services. 2692

(6) "Nursing home" means a home used for the reception and 2693
care of individuals who by reason of illness or physical or mental 2694
impairment require skilled nursing care and of individuals who 2695
require personal care services but not skilled nursing care. A 2696
nursing home is licensed to provide personal care services and 2697
skilled nursing care. 2698

(7) "Residential care facility" means a home that provides 2699
either of the following: 2700

(a) Accommodations for seventeen or more unrelated 2701
individuals and supervision and personal care services for three 2702
or more of those individuals who are dependent on the services of 2703
others by reason of age or physical or mental impairment; 2704

(b) Accommodations for three or more unrelated individuals, 2705
supervision and personal care services for at least three of those 2706
individuals who are dependent on the services of others by reason 2707
of age or physical or mental impairment, and, to at least one of 2708
those individuals, any of the skilled nursing care authorized by 2709
section 3721.011 of the Revised Code. 2710

(8) "Home for the aging" means a home that provides services 2711
as a residential care facility and a nursing home, except that the 2712
home provides its services only to individuals who are dependent 2713
on the services of others by reason of both age and physical or 2714

mental impairment. 2715

The part or unit of a home for the aging that provides 2716
services only as a residential care facility is licensed as a 2717
residential care facility. The part or unit that may provide 2718
skilled nursing care beyond the extent authorized by section 2719
3721.011 of the Revised Code is licensed as a nursing home. 2720

(9) "County home" and "district home" mean a county home or 2721
district home operated under Chapter 5155. of the Revised Code. 2722

(B) The director of health may further classify homes. For 2723
the purposes of this chapter, any residence, institution, hotel, 2724
congregate housing project, or similar facility that meets the 2725
definition of a home under this section is such a home regardless 2726
of how the facility holds itself out to the public. 2727

(C) For purposes of this chapter, personal care services or 2728
skilled nursing care shall be considered to be provided by a 2729
facility if they are provided by a person employed by or 2730
associated with the facility or by another person pursuant to an 2731
agreement to which neither the resident who receives the services 2732
nor the resident's sponsor is a party. 2733

(D) Nothing in division (A)(4) of this section shall be 2734
construed to permit skilled nursing care to be imposed on an 2735
individual who does not require skilled nursing care. 2736

Nothing in division (A)(5) of this section shall be construed 2737
to permit personal care services to be imposed on an individual 2738
who is capable of performing the activity in question without 2739
assistance. 2740

(E) Division (A)(1)(c)~~(viii)~~(ix) of this section does not 2741
prohibit a facility, infirmary, or other entity described in that 2742
division from seeking licensure under sections 3721.01 to 3721.09 2743
of the Revised Code or certification under Title XVIII or XIX of 2744
the "Social Security Act." However, such a facility, infirmary, or 2745

entity that applies for licensure or certification must meet the 2746
requirements of those sections or titles and the rules adopted 2747
under them and obtain a certificate of need from the director of 2748
health under section 3702.52 of the Revised Code. 2749

(F) Nothing in this chapter, or rules adopted pursuant to it, 2750
shall be construed as authorizing the supervision, regulation, or 2751
control of the spiritual care or treatment of residents or 2752
patients in any home who rely upon treatment by prayer or 2753
spiritual means in accordance with the creed or tenets of any 2754
recognized church or religious denomination. 2755

Sec. 3793.11. (A) No alcohol and drug addiction program shall 2756
employ methadone treatment or prescribe, dispense, or administer 2757
methadone unless the program is licensed under this section. No 2758
alcohol and drug addiction program licensed under this section 2759
shall maintain methadone treatment in a manner inconsistent with 2760
this section and the rules adopted under it. 2761

(B) An alcohol and drug addiction program may apply to the 2762
department of alcohol and drug addiction services for a license to 2763
maintain methadone treatment. The department shall review all 2764
applications received. 2765

(C) The department may issue a license to maintain methadone 2766
treatment to an alcohol and drug addiction program only if all of 2767
the following apply: 2768

(1) The program is operated by a private, nonprofit 2769
organization or by a government entity; 2770

(2) For at least two years immediately preceding the date of 2771
application, the program has been fully certified under section 2772
3793.06 of the Revised Code; 2773

(3) The program has not been denied a license to maintain 2774
methadone treatment or had its license withdrawn or revoked within 2775

the five-year period immediately preceding the date of application; 2776
2777

(4) It affirmatively appears to the department that the program is adequately staffed and equipped to maintain methadone treatment; 2778
2779
2780

(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; 2781
2782
2783
2784
2785

(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. 2786
2787
2788
2789

(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. 2790
2791
2792
2793
2794
2795
2796
2797

~~(D)~~(E) A license to maintain methadone treatment shall expire one year from the date of issuance. Licenses may be renewed. 2798
2799

~~(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. 2800
2801
2802
2803
2804
2805
2806

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)~~(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.

~~(2)~~ 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 2838
to section 3793.13 of the Revised Code, the department may hold 2839
hearings, require the production of relevant matter, compel 2840
testimony, issue subpoenas, and make adjudications. Upon failure 2841
of a person without lawful excuse to obey a subpoena or to produce 2842
relevant matter, the department may apply to a court of common 2843
pleas for an order compelling compliance. 2844

~~(J)~~(K) The department may refuse to issue, or may withdraw or 2845
revoke, a license to maintain methadone treatment. A license may 2846
be refused if an alcohol and drug addiction program does not meet 2847
the requirements of division (C) of this section. A license may be 2848
withdrawn at any time the department determines that the program 2849
no longer meets the requirements for receiving the license. A 2850
license may be revoked in accordance with division ~~(K)~~(L) of this 2851
section. 2852

~~(K)~~ In the case of a license issued prior to the effective 2853
date of this amendment, the department shall not consider the 2854
requirement of division (C)(6) of this section in determining 2855
whether to renew, withdraw, or revoke the license. 2856

(L) If the department of alcohol and drug addiction services 2857
finds reasonable cause to believe that an alcohol and drug 2858
addiction program licensed under this section is in violation of 2859
any provision of section 3719.61 of the Revised Code, or of any 2860
other state or federal law or rule relating to drug abuse, the 2861
department may issue an order immediately revoking the license, 2862
subject to division ~~(L)~~(M) of this section. The department shall 2863
set a date not more than fifteen days later than the date of the 2864
order of revocation for a hearing on the continuation or 2865
cancellation of the revocation. For good cause, the department may 2866
continue the hearing on application of any interested party. In 2867
conducting hearings, the department has all the authority and 2868
power set forth in division ~~(I)~~(J) of this section. Following the 2869

hearing, the department shall either confirm or cancel the 2870
revocation. The hearing shall be conducted in accordance with 2871
Chapter 119. of the Revised Code, except that the program shall 2872
not be permitted to maintain methadone treatment pending the 2873
hearing or pending any appeal from an adjudication made as a 2874
result of the hearing. Notwithstanding any provision of Chapter 2875
119. of the Revised Code to the contrary, a court shall not stay 2876
or suspend any order of revocation issued by the director under 2877
this division pending judicial appeal. 2878

~~(L)~~(M) The department shall not revoke a license to maintain 2879
methadone treatment unless all clients receiving methadone 2880
treatment from the alcohol and drug addiction program are provided 2881
adequate substitute treatment. For purposes of this division, the 2882
department may transfer the clients to other programs licensed to 2883
maintain methadone treatment or replace any or all of the 2884
administrators and staff of the program with representatives of 2885
the department who shall continue on a provisional basis the 2886
methadone treatment component of the program. 2887

~~(M)~~(N) Each time the department receives an application from 2888
an alcohol and drug addiction program for a license to maintain 2889
methadone treatment, issues or refuses to issue a license, or 2890
withdraws or revokes a license, the department shall notify the 2891
board of alcohol, drug addiction, and mental health services of 2892
each alcohol, drug addiction, and mental health service district 2893
in which the program is operated. 2894

~~(N)~~(O) Whenever it appears to the department from files, upon 2895
complaint, or otherwise, that an alcohol and drug addiction 2896
program has engaged in any practice declared to be illegal or 2897
prohibited by section 3719.61 of the Revised Code, or any other 2898
state or federal laws or regulations relating to drug abuse, or 2899
when the department believes it to be in the best interest of the 2900
public and necessary for the protection of the citizens of the 2901

state, the department may request criminal proceedings by laying 2902
before the prosecuting attorney of the proper county any evidence 2903
of criminality which may come to its knowledge. 2904

~~(O)~~(P) The department shall maintain a current list of 2905
alcohol and drug addiction programs licensed by the department 2906
under ~~division (C)~~ of this section and shall provide a copy of the 2907
current list to a judge of a court of common pleas who requests a 2908
copy for the use of the judge under division (H) of section 2909
2925.03 of the Revised Code. The list of licensed alcohol and drug 2910
addiction programs shall identify each licensed program by its 2911
name, its address, and the county in which it is located. 2912

Sec. 3795.01. As used in sections 3795.01, 3795.02, and 2913
3795.03 of the Revised Code: 2914

(A) "Assist suicide" or "assisting suicide" means knowingly 2915
doing either of the following, with the purpose of helping another 2916
person to commit or attempt suicide: 2917

(1) Providing the physical means by which the person commits 2918
or attempts to commit suicide; 2919

(2) Participating in a physical act by which the person 2920
commits or attempts to commit suicide. 2921

(B) "Certified nurse practitioner," "certified 2922
nurse-midwife," and "clinical nurse specialist" have the same 2923
meanings as in section 4723.01 of the Revised Code. 2924

(C) "CPR" has the same meaning as in section 2133.21 of the 2925
Revised Code. 2926

(D) "Health care" means any care, treatment, service, or 2927
procedure to maintain, diagnose, or treat a person's physical or 2928
mental condition. 2929

(E) "Health care decision" means informed consent, refusal to 2930
give informed consent, or withdrawal of informed consent to health 2931

care.	2932
(F) "Health care facility" means any of the following:	2933
(1) A hospital;	2934
(2) A hospice care program <u>or pediatric respite care program</u>	2935
as defined in section 3712.01 of the Revised Code;	2936
(3) A nursing home;	2937
(4) A home health agency;	2938
(5) An intermediate care facility for the mentally retarded.	2939
(G) "Health care personnel" means physicians, nurses,	2940
physician assistants, emergency medical technicians-basic,	2941
emergency medical technicians-intermediate, emergency medical	2942
technicians-paramedic, medical technicians, dietitians, other	2943
authorized persons acting under the direction of an attending	2944
physician, and administrators of health care facilities.	2945
(H) "Physician" means a person who is authorized under	2946
Chapter 4731. of the Revised Code to practice medicine and surgery	2947
or osteopathic medicine and surgery.	2948
Sec. 3963.01. As used in this chapter:	2949
(A) "Affiliate" means any person or entity that has ownership	2950
or control of a contracting entity, is owned or controlled by a	2951
contracting entity, or is under common ownership or control with a	2952
contracting entity.	2953
(B) "Basic health care services" has the same meaning as in	2954
division (A) of section 1751.01 of the Revised Code, except that	2955
it does not include any services listed in that division that are	2956
provided by a pharmacist or nursing home.	2957
(C) "Contracting entity" means any person that has a primary	2958
business purpose of contracting with participating providers for	2959
the delivery of health care services.	2960

(D) "Credentialing" means the process of assessing and 2961
validating the qualifications of a provider applying to be 2962
approved by a contracting entity to provide basic health care 2963
services, specialty health care services, or supplemental health 2964
care services to enrollees. 2965

(E) "Edit" means adjusting one or more procedure codes billed 2966
by a participating provider on a claim for payment or a practice 2967
that results in any of the following: 2968

(1) Payment for some, but not all of the procedure codes 2969
originally billed by a participating provider; 2970

(2) Payment for a different procedure code than the procedure 2971
code originally billed by a participating provider; 2972

(3) A reduced payment as a result of services provided to an 2973
enrollee that are claimed under more than one procedure code on 2974
the same service date. 2975

(F) "Electronic claims transport" means to accept and 2976
digitize claims or to accept claims already digitized, to place 2977
those claims into a format that complies with the electronic 2978
transaction standards issued by the United States department of 2979
health and human services pursuant to the "Health Insurance 2980
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 2981
U.S.C. 1320d, et seq., as those electronic standards are 2982
applicable to the parties and as those electronic standards are 2983
updated from time to time, and to electronically transmit those 2984
claims to the appropriate contracting entity, payer, or 2985
third-party administrator. 2986

(G) "Enrollee" means any person eligible for health care 2987
benefits under a health benefit plan, including an eligible 2988
recipient of medicaid under Chapter 5111. of the Revised Code, and 2989
includes all of the following terms: 2990

(1) "Enrollee" and "subscriber" as defined by section 1751.01 2991

of the Revised Code;	2992
(2) "Member" as defined by section 1739.01 of the Revised Code;	2993 2994
(3) "Insured" and "plan member" pursuant to Chapter 3923. of the Revised Code;	2995 2996
(4) "Beneficiary" as defined by section 3901.38 of the Revised Code.	2997 2998
(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.	2999 3000 3001 3002 3003
(I) "Health care services" means basic health care services, specialty health care services, and supplemental health care services.	3004 3005 3006
(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:	3007 3008 3009 3010 3011 3012
(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;	3013 3014 3015 3016
(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;	3017 3018 3019 3020
(3) An administrative change that may significantly increase	3021

the provider's administrative expense, the specific applicability	3022
of which is clearly identified in the contract;	3023
(4) Changes to an existing prior authorization,	3024
precertification, notification, or referral program that do not	3025
substantially increase the provider's administrative expense;	3026
(5) Changes to an edit program or to specific edits if the	3027
participating provider is provided notice of the changes pursuant	3028
to division (A)(1) of section 3963.04 of the Revised Code and the	3029
notice includes information sufficient for the provider to	3030
determine the effect of the change;	3031
(6) Changes to a health care contract described in division	3032
(B) of section 3963.04 of the Revised Code.	3033
(K) "Participating provider" means a provider that has a	3034
health care contract with a contracting entity and is entitled to	3035
reimbursement for health care services rendered to an enrollee	3036
under the health care contract.	3037
(L) "Payer" means any person that assumes the financial risk	3038
for the payment of claims under a health care contract or the	3039
reimbursement for health care services provided to enrollees by	3040
participating providers pursuant to a health care contract.	3041
(M) "Primary enrollee" means a person who is responsible for	3042
making payments for participation in a health care plan or an	3043
enrollee whose employment or other status is the basis of	3044
eligibility for enrollment in a health care plan.	3045
(N) "Procedure codes" includes the American medical	3046
association's current procedural terminology code, the American	3047
dental association's current dental terminology, and the centers	3048
for medicare and medicaid services health care common procedure	3049
coding system.	3050
(O) "Product" means one of the following types of categories	3051

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 3082
are provided by a pharmacist or nursing home. 3083

Sec. 4503.44. (A) As used in this section and in section 3084
4511.69 of the Revised Code: 3085

(1) "Person with a disability that limits or impairs the 3086
ability to walk" means any person who, as determined by a health 3087
care provider, meets any of the following criteria: 3088

(a) Cannot walk two hundred feet without stopping to rest; 3089

(b) Cannot walk without the use of, or assistance from, a 3090
brace, cane, crutch, another person, prosthetic device, 3091
wheelchair, or other assistive device; 3092

(c) Is restricted by a lung disease to such an extent that 3093
the person's forced (respiratory) expiratory volume for one 3094
second, when measured by spirometry, is less than one liter, or 3095
the arterial oxygen tension is less than sixty millimeters of 3096
mercury on room air at rest; 3097

(d) Uses portable oxygen; 3098

(e) Has a cardiac condition to the extent that the person's 3099
functional limitations are classified in severity as class III or 3100
class IV according to standards set by the American heart 3101
association; 3102

(f) Is severely limited in the ability to walk due to an 3103
arthritic, neurological, or orthopedic condition; 3104

(g) Is blind. 3105

(2) "Organization" means any private organization or 3106
corporation, or any governmental board, agency, department, 3107
division, or office, that, as part of its business or program, 3108
transports persons with disabilities that limit or impair the 3109
ability to walk on a regular basis in a motor vehicle that has not 3110

been altered for the purpose of providing it with special 3111
equipment for use by handicapped persons. This definition does not 3112
apply to division (J) of this section. 3113

(3) "Health care provider" means a physician, physician 3114
assistant, advanced practice registered nurse, or chiropractor as 3115
defined in this section. 3116

(4) "Physician" means a person licensed to practice medicine 3117
or surgery or osteopathic medicine and surgery under Chapter 4731. 3118
of the Revised Code. 3119

(5) "Chiropractor" means a person licensed to practice 3120
chiropractic under Chapter 4734. of the Revised Code. 3121

(6) "Advanced practice registered nurse" means ~~any~~ a 3122
certified nurse practitioner, clinical nurse specialist, certified 3123
registered nurse anesthetist, or certified nurse-midwife who holds 3124
a certificate of authority issued by the board of nursing under 3125
Chapter 4723. of the Revised Code. 3126

(7) "Physician assistant" means a person who holds a 3127
certificate to practice as a physician assistant issued under 3128
Chapter 4730. of the Revised Code. 3129

(B) Any organization or person with a disability that limits 3130
or impairs the ability to walk may apply to the registrar of motor 3131
vehicles for a removable windshield placard or, if the person owns 3132
or leases a motor vehicle, the person may apply for the 3133
registration of any motor vehicle the person owns or leases. In 3134
addition to one or more sets of license plates or one placard, a 3135
person with a disability that limits or impairs the ability to 3136
walk is entitled to one additional placard, but only if the person 3137
applies separately for the additional placard, states the reasons 3138
why the additional placard is needed, and the registrar, in the 3139
registrar's discretion, determines that good and justifiable cause 3140
exists to approve the request for the additional placard. When a 3141

motor vehicle has been altered for the purpose of providing it 3142
with special equipment for a person with a disability that limits 3143
or impairs the ability to walk, but is owned or leased by someone 3144
other than such a person, the owner or lessee may apply to the 3145
registrar or a deputy registrar for registration under this 3146
section. The application for registration of a motor vehicle owned 3147
or leased by a person with a disability that limits or impairs the 3148
ability to walk shall be accompanied by a signed statement from 3149
the applicant's health care provider certifying that the applicant 3150
meets at least one of the criteria contained in division (A)(1) of 3151
this section and that the disability is expected to continue for 3152
more than six consecutive months. The application for a removable 3153
windshield placard made by a person with a disability that limits 3154
or impairs the ability to walk shall be accompanied by a 3155
prescription from the applicant's health care provider prescribing 3156
such a placard for the applicant, provided that the applicant 3157
meets at least one of the criteria contained in division (A)(1) of 3158
this section. The health care provider shall state on the 3159
prescription the length of time the health care provider expects 3160
the applicant to have the disability that limits or impairs the 3161
applicant's ability to walk. The application for a removable 3162
windshield placard made by an organization shall be accompanied by 3163
such documentary evidence of regular transport of persons with 3164
disabilities that limit or impair the ability to walk by the 3165
organization as the registrar may require by rule and shall be 3166
completed in accordance with procedures that the registrar may 3167
require by rule. The application for registration of a motor 3168
vehicle that has been altered for the purpose of providing it with 3169
special equipment for a person with a disability that limits or 3170
impairs the ability to walk but is owned by someone other than 3171
such a person shall be accompanied by such documentary evidence of 3172
vehicle alterations as the registrar may require by rule. 3173

(C) When an organization, a person with a disability that 3174

limits or impairs the ability to walk, or a person who does not 3175
have a disability that limits or impairs the ability to walk but 3176
owns a motor vehicle that has been altered for the purpose of 3177
providing it with special equipment for a person with a disability 3178
that limits or impairs the ability to walk first submits an 3179
application for registration of a motor vehicle under this section 3180
and every fifth year thereafter, the organization or person shall 3181
submit a signed statement from the applicant's health care 3182
provider, a completed application, and any required documentary 3183
evidence of vehicle alterations as provided in division (B) of 3184
this section, and also a power of attorney from the owner of the 3185
motor vehicle if the applicant leases the vehicle. Upon submission 3186
of these items, the registrar or deputy registrar shall issue to 3187
the applicant appropriate vehicle registration and a set of 3188
license plates and validation stickers, or validation stickers 3189
alone when required by section 4503.191 of the Revised Code. In 3190
addition to the letters and numbers ordinarily inscribed thereon, 3191
the license plates shall be imprinted with the international 3192
symbol of access. The license plates and validation stickers shall 3193
be issued upon payment of the regular license fee as prescribed 3194
under section 4503.04 of the Revised Code and any motor vehicle 3195
tax levied under Chapter 4504. of the Revised Code, and the 3196
payment of a service fee equal to the amount specified in division 3197
(D) or (G) of section 4503.10 of the Revised Code. 3198

(D)(1) Upon receipt of a completed and signed application for 3199
a removable windshield placard, a prescription as described in 3200
division (B) of this section, documentary evidence of regular 3201
transport of persons with disabilities that limit or impair the 3202
ability to walk, if required, and payment of a service fee equal 3203
to the amount specified in division (D) or (G) of section 4503.10 3204
of the Revised Code, the registrar or deputy registrar shall issue 3205
to the applicant a removable windshield placard, which shall bear 3206
the date of expiration on both sides of the placard and shall be 3207

valid until expired, revoked, or surrendered. Every removable 3208
windshield placard expires as described in division (D)(2) of this 3209
section, but in no case shall a removable windshield placard be 3210
valid for a period of less than sixty days. Removable windshield 3211
placards shall be renewable upon application as provided in 3212
division (B) of this section, and a service fee equal to the 3213
amount specified in division (D) or (G) of section 4503.10 of the 3214
Revised Code shall be charged for the renewal of a removable 3215
windshield placard. The registrar shall provide the application 3216
form and shall determine the information to be included thereon. 3217
The registrar also shall determine the form and size of the 3218
removable windshield placard, the material of which it is to be 3219
made, and any other information to be included thereon, and shall 3220
adopt rules relating to the issuance, expiration, revocation, 3221
surrender, and proper display of such placards. Any placard issued 3222
after October 14, 1999, shall be manufactured in a manner that 3223
allows the expiration date of the placard to be indicated on it 3224
through the punching, drilling, boring, or creation by any other 3225
means of holes in the placard. 3226

(2) At the time a removable windshield placard is issued to a 3227
person with a disability that limits or impairs the ability to 3228
walk, the registrar or deputy registrar shall enter into the 3229
records of the bureau of motor vehicles the last date on which the 3230
person will have that disability, as indicated on the accompanying 3231
prescription. Not less than thirty days prior to that date and all 3232
removable windshield placard renewal dates, the bureau shall send 3233
a renewal notice to that person at the person's last known address 3234
as shown in the records of the bureau, informing the person that 3235
the person's removable windshield placard will expire on the 3236
indicated date not to exceed five years from the date of issuance, 3237
and that the person is required to renew the placard by submitting 3238
to the registrar or a deputy registrar another prescription, as 3239
described in division (B) of this section, and by complying with 3240

the renewal provisions prescribed in division (D)(1) of this 3241
section. If such a prescription is not received by the registrar 3242
or a deputy registrar by that date, the placard issued to that 3243
person expires and no longer is valid, and this fact shall be 3244
recorded in the records of the bureau. 3245

(3) At least once every year, on a date determined by the 3246
registrar, the bureau shall examine the records of the office of 3247
vital statistics, located within the department of health, that 3248
pertain to deceased persons, and also the bureau's records of all 3249
persons who have been issued removable windshield placards and 3250
temporary removable windshield placards. If the records of the 3251
office of vital statistics indicate that a person to whom a 3252
removable windshield placard or temporary removable windshield 3253
placard has been issued is deceased, the bureau shall cancel that 3254
placard, and note the cancellation in its records. 3255

The office of vital statistics shall make available to the 3256
bureau all information necessary to enable the bureau to comply 3257
with division (D)(3) of this section. 3258

(4) Nothing in this section shall be construed to require a 3259
person or organization to apply for a removable windshield placard 3260
or special license plates if the parking card or special license 3261
plates issued to the person or organization under prior law have 3262
not expired or been surrendered or revoked. 3263

(E)(1)(a) Any person with a disability that limits or impairs 3264
the ability to walk may apply to the registrar or a deputy 3265
registrar for a temporary removable windshield placard. The 3266
application for a temporary removable windshield placard shall be 3267
accompanied by a prescription from the applicant's health care 3268
provider prescribing such a placard for the applicant, provided 3269
that the applicant meets at least one of the criteria contained in 3270
division (A)(1) of this section and that the disability is 3271
expected to continue for six consecutive months or less. The 3272

health care provider shall state on the prescription the length of 3273
time the health care provider expects the applicant to have the 3274
disability that limits or impairs the applicant's ability to walk, 3275
which cannot exceed six months from the date of the prescription. 3276
Upon receipt of an application for a temporary removable 3277
windshield placard, presentation of the prescription from the 3278
applicant's health care provider, and payment of a service fee 3279
equal to the amount specified in division (D) or (G) of section 3280
4503.10 of the Revised Code, the registrar or deputy registrar 3281
shall issue to the applicant a temporary removable windshield 3282
placard. 3283

(b) Any active-duty member of the armed forces of the United 3284
States, including the reserve components of the armed forces and 3285
the national guard, who has an illness or injury that limits or 3286
impairs the ability to walk may apply to the registrar or a deputy 3287
registrar for a temporary removable windshield placard. With the 3288
application, the person shall present evidence of the person's 3289
active-duty status and the illness or injury. Evidence of the 3290
illness or injury may include a current department of defense 3291
convalescent leave statement, any department of defense document 3292
indicating that the person currently has an ill or injured 3293
casualty status or has limited duties, or a prescription from any 3294
health care provider prescribing the placard for the applicant. 3295
Upon receipt of the application and the necessary evidence, the 3296
registrar or deputy registrar shall issue the applicant the 3297
temporary removable windshield placard without the payment of any 3298
service fee. 3299

(2) The temporary removable windshield placard shall be of 3300
the same size and form as the removable windshield placard, shall 3301
be printed in white on a red-colored background, and shall bear 3302
the word "temporary" in letters of such size as the registrar 3303
shall prescribe. A temporary removable windshield placard also 3304

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, 3337
who thereupon shall revoke the privilege of using the placard or 3338
parking card and send notice in writing to the placardholder or 3339
cardholder at that holder's last known address as shown in the 3340
records of the bureau, and the placardholder or cardholder shall 3341
return the placard or card if not previously surrendered to the 3342
court, to the registrar within ten days following mailing of the 3343
notice. 3344

Whenever a person to whom a removable windshield placard or 3345
parking card has been issued moves to another state, the person 3346
shall surrender the placard or card to the registrar; and whenever 3347
an organization to which a placard or card has been issued changes 3348
its place of operation to another state, the organization shall 3349
surrender the placard or card to the registrar. 3350

(H) Subject to division (F) of section 4511.69 of the Revised 3351
Code, the operator of a motor vehicle displaying a removable 3352
windshield placard, temporary removable windshield placard, 3353
parking card, or the special license plates authorized by this 3354
section is entitled to park the motor vehicle in any special 3355
parking location reserved for persons with disabilities that limit 3356
or impair the ability to walk, also known as handicapped parking 3357
spaces or disability parking spaces. 3358

(I) No person or organization that is not eligible under 3359
division (B) or (E) of this section shall willfully and falsely 3360
represent that the person or organization is so eligible. 3361

No person or organization shall display license plates issued 3362
under this section unless the license plates have been issued for 3363
the vehicle on which they are displayed and are valid. 3364

(J) No person or organization to which a removable windshield 3365
placard or temporary removable windshield placard is issued shall 3366
do either of the following: 3367

(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;	3368 3369 3370 3371 3372
(2) Refuse to return or surrender the placard, when required.	3373
(K)(1) No person or organization to which a parking card is issued shall do either of the following:	3374 3375
(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;	3376 3377 3378 3379
(b) Refuse to return or surrender the parking card, when required.	3380 3381
(2) As used in division (K) of this section:	3382
(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.	3383 3384 3385 3386 3387 3388
(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.	3389 3390 3391 3392 3393 3394
(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	3395 3396 3397

by doing both of the following: 3398

(1) Furnishing suitable proof of the loss, destruction, or 3399
mutilation to the registrar; 3400

(2) Paying a service fee equal to the amount specified in 3401
division (D) or (G) of section 4503.10 of the Revised Code. 3402

Any placardholder or cardholder who loses a placard or card 3403
and, after obtaining a duplicate, finds the original, immediately 3404
shall surrender the original placard or card to the registrar. 3405

(M) The registrar shall pay all fees received under this 3406
section for the issuance of removable windshield placards or 3407
temporary removable windshield placards or duplicate removable 3408
windshield placards or cards into the state treasury to the credit 3409
of the state bureau of motor vehicles fund created in section 3410
4501.25 of the Revised Code. 3411

(N) In addition to the fees collected under this section, the 3412
registrar or deputy registrar shall ask each person applying for a 3413
removable windshield placard or temporary removable windshield 3414
placard or duplicate removable windshield placard or license plate 3415
issued under this section, whether the person wishes to make a 3416
two-dollar voluntary contribution to support rehabilitation 3417
employment services. The registrar shall transmit the 3418
contributions received under this division to the treasurer of 3419
state for deposit into the rehabilitation employment fund, which 3420
is hereby created in the state treasury. A deputy registrar shall 3421
transmit the contributions received under this division to the 3422
registrar in the time and manner prescribed by the registrar. The 3423
contributions in the fund shall be used by the rehabilitation 3424
services commission to purchase services related to vocational 3425
evaluation, work adjustment, personal adjustment, job placement, 3426
job coaching, and community-based assessment from accredited 3427
community rehabilitation program facilities. 3428

(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 3460
business entity. 3461

(2) "Communication" means a written or oral notification or 3462
advertisement that meets both of the following criteria, as 3463
applicable: 3464

(a) The notification or advertisement is transmitted by or on 3465
behalf of the seller of goods or services and by or through any 3466
printed, audio, video, cinematic, telephonic, or electronic means. 3467

(b) In the case of a notification or advertisement other than 3468
by telephone, either of the following conditions is met: 3469

(i) The notification or advertisement is followed by a 3470
telephone call from a telephone solicitor or salesperson. 3471

(ii) The notification or advertisement invites a response by 3472
telephone, and, during the course of that response, a telephone 3473
solicitor or salesperson attempts to make or makes a sale of goods 3474
or services. As used in division (A)(2)(b)(ii) of this section, 3475
"invites a response by telephone" excludes the mere listing or 3476
inclusion of a telephone number in a notification or 3477
advertisement. 3478

(3) "Gift, award, or prize" means anything of value that is 3479
offered or purportedly offered, or given or purportedly given by 3480
chance, at no cost to the receiver and with no obligation to 3481
purchase goods or services. As used in this division, "chance" 3482
includes a situation in which a person is guaranteed to receive an 3483
item and, at the time of the offer or purported offer, the 3484
telephone solicitor does not identify the specific item that the 3485
person will receive. 3486

(4) "Goods or services" means any real property or any 3487
tangible or intangible personal property, or services of any kind 3488
provided or offered to a person. "Goods or services" includes, but 3489
is not limited to, advertising; labor performed for the benefit of 3490

a person; personal property intended to be attached to or 3491
installed in any real property, regardless of whether it is so 3492
attached or installed; timeshare estates or licenses; and extended 3493
service contracts. 3494

(5) "Purchaser" means a person that is solicited to become or 3495
does become financially obligated as a result of a telephone 3496
solicitation. 3497

(6) "Salesperson" means an individual who is employed, 3498
appointed, or authorized by a telephone solicitor to make 3499
telephone solicitations but does not mean any of the following: 3500

(a) An individual who comes within one of the exemptions in 3501
division (B) of this section; 3502

(b) An individual employed, appointed, or authorized by a 3503
person who comes within one of the exemptions in division (B) of 3504
this section; 3505

(c) An individual under a written contract with a person who 3506
comes within one of the exemptions in division (B) of this 3507
section, if liability for all transactions with purchasers is 3508
assumed by the person so exempted. 3509

(7) "Telephone solicitation" means a communication to a 3510
person that meets both of the following criteria: 3511

(a) The communication is initiated by or on behalf of a 3512
telephone solicitor or by a salesperson. 3513

(b) The communication either represents a price or the 3514
quality or availability of goods or services or is used to induce 3515
the person to purchase goods or services, including, but not 3516
limited to, inducement through the offering of a gift, award, or 3517
prize. 3518

(8) "Telephone solicitor" means a person that engages in 3519
telephone solicitation directly or through one or more 3520

salespersons either from a location in this state, or from a 3521
location outside this state to persons in this state. "Telephone 3522
solicitor" includes, but is not limited to, any such person that 3523
is an owner, operator, officer, or director of, partner in, or 3524
other individual engaged in the management activities of, a 3525
business. 3526

(B) A telephone solicitor is exempt from the provisions of 3527
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 3528
Code if the telephone solicitor is any one of the following: 3529

(1) A person engaging in a telephone solicitation that is a 3530
one-time or infrequent transaction not done in the course of a 3531
pattern of repeated transactions of a like nature; 3532

(2) A person engaged in telephone solicitation solely for 3533
religious or political purposes; a charitable organization, 3534
fund-raising counsel, or professional solicitor in compliance with 3535
the registration and reporting requirements of Chapter 1716. of 3536
the Revised Code; or any person or other entity exempt under 3537
section 1716.03 of the Revised Code from filing a registration 3538
statement under section 1716.02 of the Revised Code; 3539

(3) A person, making a telephone solicitation involving a 3540
home solicitation sale as defined in section 1345.21 of the 3541
Revised Code, that makes the sales presentation and completes the 3542
sale at a later, face-to-face meeting between the seller and the 3543
purchaser rather than during the telephone solicitation. However, 3544
if the person, following the telephone solicitation, causes 3545
another person to collect the payment of any money, this exemption 3546
does not apply. 3547

(4) A licensed securities, commodities, or investment broker, 3548
dealer, investment advisor, or associated person when making a 3549
telephone solicitation within the scope of the person's license. 3550
As used in division (B)(4) of this section, "licensed securities, 3551

commodities, or investment broker, dealer, investment advisor, or 3552
associated person" means a person subject to licensure or 3553
registration as such by the securities and exchange commission; 3554
the National Association of Securities Dealers or other 3555
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by 3556
the division of securities under Chapter 1707. of the Revised 3557
Code; or by an official or agency of any other state of the United 3558
States. 3559

(5)(a) A person primarily engaged in soliciting the sale of a 3560
newspaper of general circulation; 3561

(b) As used in division (B)(5)(a) of this section, "newspaper 3562
of general circulation" includes, but is not limited to, both of 3563
the following: 3564

(i) A newspaper that is a daily law journal designated as an 3565
official publisher of court calendars pursuant to section 2701.09 3566
of the Revised Code; 3567

(ii) A newspaper or publication that has at least twenty-five 3568
per cent editorial, non-advertising content, exclusive of inserts, 3569
measured relative to total publication space, and an audited 3570
circulation to at least fifty per cent of the households in the 3571
newspaper's retail trade zone as defined by the audit. 3572

(6)(a) An issuer, or its subsidiary, that has a class of 3573
securities to which all of the following apply: 3574

(i) The class of securities is subject to section 12 of the 3575
"Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 3576
registered or is exempt from registration under 15 U.S.C.A. 3577
781(g)(2)(A), (B), (C), (E), (F), (G), or (H); 3578

(ii) The class of securities is listed on the New York stock 3579
exchange, the American stock exchange, or the NASDAQ national 3580
market system; 3581

(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).	3582 3583
(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.	3584 3585 3586 3587 3588 3589 3590 3591 3592 3593
(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;	3594 3595 3596 3597 3598
(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;	3599 3600 3601 3602 3603 3604 3605
(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	3606 3607 3608 3609 3610 3611 3612 3613

state of the United States; or a licensee or registrant under 3614
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 3615
1321.83 of the Revised Code. 3616

(10)(a) An insurance company, association, or other 3617
organization that is licensed or authorized to conduct business in 3618
this state by the superintendent of insurance pursuant to Title 3619
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 3620
when soliciting within the scope of its license or authorization. 3621

(b) A licensed insurance broker, agent, or solicitor when 3622
soliciting within the scope of the person's license. As used in 3623
division (B)(10)(b) of this section, "licensed insurance broker, 3624
agent, or solicitor" means any person licensed as an insurance 3625
broker, agent, or solicitor by the superintendent of insurance 3626
pursuant to Title XXXIX of the Revised Code. 3627

(11) A person soliciting the sale of services provided by a 3628
cable television system operating under authority of a 3629
governmental franchise or permit; 3630

(12) A person soliciting a business-to-business sale under 3631
which any of the following conditions are met: 3632

(a) The telephone solicitor has been operating continuously 3633
for at least three years under the same business name under which 3634
it solicits purchasers, and at least fifty-one per cent of its 3635
gross dollar volume of sales consists of repeat sales to existing 3636
customers to whom it has made sales under the same business name. 3637

(b) The purchaser business intends to resell the goods 3638
purchased. 3639

(c) The purchaser business intends to use the goods or 3640
services purchased in a recycling, reuse, manufacturing, or 3641
remanufacturing process. 3642

(d) The telephone solicitor is a publisher of a periodical or 3643

of magazines distributed as controlled circulation publications as 3644
defined in division (CC) of section 5739.01 of the Revised Code 3645
and is soliciting sales of advertising, subscriptions, reprints, 3646
lists, information databases, conference participation or 3647
sponsorships, trade shows or media products related to the 3648
periodical or magazine, or other publishing services provided by 3649
the controlled circulation publication. 3650

(13) A person that, not less often than once each year, 3651
publishes and delivers to potential purchasers a catalog that 3652
complies with both of the following: 3653

(a) It includes all of the following: 3654

(i) The business address of the seller; 3655

(ii) A written description or illustration of each good or 3656
service offered for sale; 3657

(iii) A clear and conspicuous disclosure of the sale price of 3658
each good or service; shipping, handling, and other charges; and 3659
return policy; 3660

(b) One of the following applies: 3661

(i) The catalog includes at least twenty-four pages of 3662
written material and illustrations, is distributed in more than 3663
one state, and has an annual postage-paid mail circulation of not 3664
less than two hundred fifty thousand households; 3665

(ii) The catalog includes at least ten pages of written 3666
material or an equivalent amount of material in electronic form on 3667
the internet or an on-line computer service, the person does not 3668
solicit customers by telephone but solely receives telephone calls 3669
made in response to the catalog, and during the calls the person 3670
takes orders but does not engage in further solicitation of the 3671
purchaser. As used in division (B)(13)(b)(ii) of this section, 3672
"further solicitation" does not include providing the purchaser 3673

with information about, or attempting to sell, any other item in 3674
the catalog that prompted the purchaser's call or in a 3675
substantially similar catalog issued by the seller. 3676

(14) A political subdivision or instrumentality of the United 3677
States, this state, or any state of the United States; 3678

(15) A college or university or any other public or private 3679
institution of higher education in this state; 3680

(16) A public utility as defined in section 4905.02 of the 3681
Revised Code or a retail natural gas supplier as defined in 3682
section 4929.01 of the Revised Code, if the utility or supplier is 3683
subject to regulation by the public utilities commission, or the 3684
affiliate of the utility or supplier; 3685

(17) A person that solicits sales through a television 3686
program or advertisement that is presented in the same market area 3687
no fewer than twenty days per month or offers for sale no fewer 3688
than ten distinct items of goods or services; and offers to the 3689
purchaser an unconditional right to return any good or service 3690
purchased within a period of at least seven days and to receive a 3691
full refund within thirty days after the purchaser returns the 3692
good or cancels the service; 3693

(18)(a) A person that, for at least one year, has been 3694
operating a retail business under the same name as that used in 3695
connection with telephone solicitation and both of the following 3696
occur on a continuing basis: 3697

(i) The person either displays goods and offers them for 3698
retail sale at the person's business premises or offers services 3699
for sale and provides them at the person's business premises. 3700

(ii) At least fifty-one per cent of the person's gross dollar 3701
volume of retail sales involves purchases of goods or services at 3702
the person's business premises. 3703

(b) An affiliate of a person that meets the requirements in 3704
division (B)(18)(a) of this section if the affiliate meets all of 3705
the following requirements: 3706

(i) The affiliate has operated a retail business for a period 3707
of less than one year; 3708

(ii) The affiliate either displays goods and offers them for 3709
retail sale at the affiliate's business premises or offers 3710
services for sale and provides them at the affiliate's business 3711
premises; 3712

(iii) At least fifty-one per cent of the affiliate's gross 3713
dollar volume of retail sales involves purchases of goods or 3714
services at the affiliate's business premises. 3715

(c) A person that, for a period of less than one year, has 3716
been operating a retail business in this state under the same name 3717
as that used in connection with telephone solicitation, as long as 3718
all of the following requirements are met: 3719

(i) The person either displays goods and offers them for 3720
retail sale at the person's business premises or offers services 3721
for sale and provides them at the person's business premises; 3722

(ii) The goods or services that are the subject of telephone 3723
solicitation are sold at the person's business premises, and at 3724
least sixty-five per cent of the person's gross dollar volume of 3725
retail sales involves purchases of goods or services at the 3726
person's business premises; 3727

(iii) The person conducts all telephone solicitation 3728
activities according to sections 310.3, 310.4, and 310.5 of the 3729
telemarketing sales rule adopted by the federal trade commission 3730
in 16 C.F.R. part 310. 3731

(19) A person who performs telephone solicitation sales 3732
services on behalf of other persons and to whom one of the 3733

following applies: 3734

(a) The person has operated under the same ownership, 3735
control, and business name for at least five years, and the person 3736
receives at least seventy-five per cent of its gross revenues from 3737
written telephone solicitation contracts with persons who come 3738
within one of the exemptions in division (B) of this section. 3739

(b) The person is an affiliate of one or more exempt persons 3740
and makes telephone solicitations on behalf of only the exempt 3741
persons of which it is an affiliate. 3742

(c) The person makes telephone solicitations on behalf of 3743
only exempt persons, the person and each exempt person on whose 3744
behalf telephone solicitations are made have entered into a 3745
written contract that specifies the manner in which the telephone 3746
solicitations are to be conducted and that at a minimum requires 3747
compliance with the telemarketing sales rule adopted by the 3748
federal trade commission in 16 C.F.R. part 310, and the person 3749
conducts the telephone solicitations in the manner specified in 3750
the written contract. 3751

(d) The person performs telephone solicitation for religious 3752
or political purposes, a charitable organization, a fund-raising 3753
council, or a professional solicitor in compliance with the 3754
registration and reporting requirements of Chapter 1716. of the 3755
Revised Code; and meets all of the following requirements: 3756

(i) The person has operated under the same ownership, 3757
control, and business name for at least five years, and the person 3758
receives at least fifty-one per cent of its gross revenues from 3759
written telephone solicitation contracts with persons who come 3760
within the exemption in division (B)(2) of this section; 3761

(ii) The person does not conduct a prize promotion or offer 3762
the sale of an investment opportunity; 3763

(iii) The person conducts all telephone solicitation 3764

activities according to sections 310.3, 310.4, and 310.5 of the 3765
telemarketing sales rules adopted by the federal trade commission 3766
in 16 C.F.R. part 310. 3767

(20) A person that is a licensed real estate salesperson or 3768
broker under Chapter 4735. of the Revised Code when soliciting 3769
within the scope of the person's license; 3770

(21)(a) Either of the following: 3771

(i) A publisher that solicits the sale of the publisher's 3772
periodical or magazine of general, paid circulation, or a person 3773
that solicits a sale of that nature on behalf of a publisher under 3774
a written agreement directly between the publisher and the person. 3775

(ii) A publisher that solicits the sale of the publisher's 3776
periodical or magazine of general, paid circulation, or a person 3777
that solicits a sale of that nature as authorized by a publisher 3778
under a written agreement directly with a publisher's 3779
clearinghouse provided the person is a resident of Ohio for more 3780
than three years and initiates all telephone solicitations from 3781
Ohio and the person conducts the solicitation and sale in 3782
compliance with 16 C.F.R. part 310, as adopted by the federal 3783
trade commission. 3784

(b) As used in division (B)(21) of this section, "periodical 3785
or magazine of general, paid circulation" excludes a periodical or 3786
magazine circulated only as part of a membership package or given 3787
as a free gift or prize from the publisher or person. 3788

(22) A person that solicits the sale of food, as defined in 3789
section 3715.01 of the Revised Code, or the sale of products of 3790
horticulture, as defined in section 5739.01 of the Revised Code, 3791
if the person does not intend the solicitation to result in, or 3792
the solicitation actually does not result in, a sale that costs 3793
the purchaser an amount greater than five hundred dollars. 3794

(23) A funeral director licensed pursuant to Chapter 4717. of 3795

the Revised Code when soliciting within the scope of that license, 3796
if both of the following apply: 3797

(a) The solicitation and sale are conducted in compliance 3798
with 16 C.F.R. part 453, as adopted by the federal trade 3799
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 3800
the Revised Code; 3801

(b) The person provides to the purchaser of any preneed 3802
funeral contract a notice that clearly and conspicuously sets 3803
forth the cancellation rights specified in division (G) of section 3804
1107.33 of the Revised Code, and retains a copy of the notice 3805
signed by the purchaser. 3806

(24) A person, or affiliate thereof, licensed to sell or 3807
issue Ohio instruments designated as travelers checks pursuant to 3808
sections 1315.01 to 1315.18 of the Revised Code. 3809

(25) A person that solicits sales from its previous 3810
purchasers and meets all of the following requirements: 3811

(a) The solicitation is made under the same business name 3812
that was previously used to sell goods or services to the 3813
purchaser; 3814

(b) The person has, for a period of not less than three 3815
years, operated a business under the same business name as that 3816
used in connection with telephone solicitation; 3817

(c) The person does not conduct a prize promotion or offer 3818
the sale of an investment opportunity; 3819

(d) The person conducts all telephone solicitation activities 3820
according to sections 310.3, 310.4, and 310.5 of the telemarketing 3821
sales rules adopted by the federal trade commission in 16 C.F.R. 3822
part 310; 3823

(e) Neither the person nor any of its principals has been 3824
convicted of, pleaded guilty to, or has entered a plea of no 3825

contest for a felony or a theft offense as defined in sections 3826
2901.02 and 2913.01 of the Revised Code or similar law of another 3827
state or of the United States; 3828

(f) Neither the person nor any of its principals has had 3829
entered against them an injunction or a final judgment or order, 3830
including an agreed judgment or order, an assurance of voluntary 3831
compliance, or any similar instrument, in any civil or 3832
administrative action involving engaging in a pattern of corrupt 3833
practices, fraud, theft, embezzlement, fraudulent conversion, or 3834
misappropriation of property; the use of any untrue, deceptive, or 3835
misleading representation; or the use of any unfair, unlawful, 3836
deceptive, or unconscionable trade act or practice. 3837

(26) An institution defined as a home health agency in 3838
section 3701.881 of the Revised Code, that conducts all telephone 3839
solicitation activities according to sections 310.3, 310.4, and 3840
310.5 of the telemarketing sales rules adopted by the federal 3841
trade commission in 16 C.F.R. part 310, and engages in telephone 3842
solicitation only within the scope of the institution's 3843
certification, accreditation, contract with the department of 3844
aging, or status as a home health agency; and that meets one of 3845
the following requirements: 3846

(a) The institution is certified as a provider of home health 3847
services under Title XVIII of the Social Security Act, 49 Stat. 3848
620, 42 U.S.C. 301, as amended; 3849

(b) The institution is accredited by either the joint 3850
commission on accreditation of health care organizations or the 3851
community health accreditation program; 3852

(c) The institution is providing passport services under the 3853
direction of the Ohio department of aging under section 173.40 of 3854
the Revised Code; 3855

(d) An affiliate of an institution that meets the 3856

requirements of division (B)(26)(a), (b), or (c) of this section 3857
when offering for sale substantially the same goods and services 3858
as those that are offered by the institution that meets the 3859
requirements of division (B)(26)(a), (b), or (c) of this section. 3860

(27) A person licensed ~~to provide a hospice care program~~ by 3861
the department of health pursuant to section 3712.04 or 3712.041 3862
of the Revised Code to provide a hospice care program or pediatric 3863
respite care program when conducting telephone solicitations 3864
within the scope of the person's license and according to sections 3865
310.3, 310.4, and 310.5 of the telemarketing sales rules adopted 3866
by the federal trade commission in 16 C.F.R. part 310. 3867

Sec. 4723.01. As used in this chapter: 3868

(A) "Registered nurse" means an individual who holds a 3869
current, valid license issued under this chapter that authorizes 3870
the practice of nursing as a registered nurse. 3871

(B) "Practice of nursing as a registered nurse" means 3872
providing to individuals and groups nursing care requiring 3873
specialized knowledge, judgment, and skill derived from the 3874
principles of biological, physical, behavioral, social, and 3875
nursing sciences. Such nursing care includes: 3876

(1) Identifying patterns of human responses to actual or 3877
potential health problems amenable to a nursing regimen; 3878

(2) Executing a nursing regimen through the selection, 3879
performance, management, and evaluation of nursing actions; 3880

(3) Assessing health status for the purpose of providing 3881
nursing care; 3882

(4) Providing health counseling and health teaching; 3883

(5) Administering medications, treatments, and executing 3884
regimens authorized by an individual who is authorized to practice 3885
in this state and is acting within the course of the individual's 3886

professional practice;	3887
(6) Teaching, administering, supervising, delegating, and evaluating nursing practice.	3888 3889
(C) "Nursing regimen" may include preventative, restorative, and health-promotion activities.	3890 3891
(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.	3892 3893 3894 3895
(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.	3896 3897 3898
(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:	3899 3900 3901 3902 3903 3904
(1) Observation, patient teaching, and care in a diversity of health care settings;	3905 3906
(2) Contributions to the planning, implementation, and evaluation of nursing;	3907 3908
(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 <u>on the condition that the</u> licensed practical nurse upon proof of completion of a course in medication administration approved by	3909 3910 3911 3912 3913 3914 3915 3916

~~the board of nursing. is authorized under section 4723.17 of the~~ 3917
Revised Code to administer medications; 3918

(4) Administration to an adult of intravenous therapy 3919
authorized by an individual who is authorized to practice in this 3920
state and is acting within the course of the individual's 3921
professional practice, on the condition that the licensed 3922
practical nurse is authorized under section ~~4723.17~~ 4723.18 or 3923
~~4723.171~~ 4723.181 of the Revised Code to perform intravenous 3924
therapy and performs intravenous therapy only in accordance with 3925
those sections; 3926

(5) Delegation of nursing tasks as directed by a registered 3927
nurse; 3928

(6) Teaching nursing tasks to licensed practical nurses and 3929
individuals to whom the licensed practical nurse is authorized to 3930
delegate nursing tasks as directed by a registered nurse. 3931

(G) "Certified registered nurse anesthetist" means a 3932
registered nurse who holds a valid certificate of authority issued 3933
under this chapter that authorizes the practice of nursing as a 3934
certified registered nurse anesthetist in accordance with section 3935
4723.43 of the Revised Code and rules adopted by the board of 3936
nursing. 3937

(H) "Clinical nurse specialist" means a registered nurse who 3938
holds a valid certificate of authority issued under this chapter 3939
that authorizes the practice of nursing as a clinical nurse 3940
specialist in accordance with section 4723.43 of the Revised Code 3941
and rules adopted by the board of nursing. 3942

(I) "Certified nurse-midwife" means a registered nurse who 3943
holds a valid certificate of authority issued under this chapter 3944
that authorizes the practice of nursing as a certified 3945
nurse-midwife in accordance with section 4723.43 of the Revised 3946
Code and rules adopted by the board of nursing. 3947

(J) "Certified nurse practitioner" means a registered nurse 3948
who holds a valid certificate of authority issued under this 3949
chapter that authorizes the practice of nursing as a certified 3950
nurse practitioner in accordance with section 4723.43 of the 3951
Revised Code and rules adopted by the board of nursing. 3952

(K) "Physician" means an individual authorized under Chapter 3953
4731. of the Revised Code to practice medicine and surgery or 3954
osteopathic medicine and surgery, ~~except as used in divisions (C)~~ 3955
~~and (D) of section 4723.482 of the Revised Code.~~ 3956

(L) "Collaboration" or "collaborating" means the following: 3957

(1) In the case of a clinical nurse specialist, except as 3958
provided in division (L)(3) of this section, or a certified nurse 3959
practitioner, that one or more podiatrists acting within the scope 3960
of practice of podiatry in accordance with section 4731.51 of the 3961
Revised Code and with whom the nurse has entered into a standard 3962
care arrangement or one or more physicians with whom the nurse has 3963
entered into a standard care arrangement are continuously 3964
available to communicate with the clinical nurse specialist or 3965
certified nurse practitioner either in person or by radio, 3966
telephone, or other form of telecommunication; 3967

(2) In the case of a certified nurse-midwife, that one or 3968
more physicians with whom the certified nurse-midwife has entered 3969
into a standard care arrangement are continuously available to 3970
communicate with the certified nurse-midwife either in person or 3971
by radio, telephone, or other form of telecommunication; 3972

(3) In the case of a clinical nurse specialist who practices 3973
the nursing specialty of mental health or psychiatric mental 3974
health without being authorized to prescribe drugs and therapeutic 3975
devices, that one or more physicians are continuously available to 3976
communicate with the nurse either in person or by radio, 3977
telephone, or other form of telecommunication. 3978

(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 4010
who holds a current, valid certificate as a community health 4011
worker issued ~~by the board of nursing~~ under section 4723.85 of the 4012
Revised Code. 4013

(T) "Medication aide" means an individual who holds a 4014
current, valid certificate issued under this chapter that 4015
authorizes the individual to administer medication in accordance 4016
with section 4723.67 of the Revised Code. 4017

Sec. 4723.03. (A) No person shall engage in the practice of 4018
nursing as a registered nurse, represent the person as being a 4019
registered nurse, or use the title "registered nurse," the 4020
initials "R.N.," or any other title implying that the person is a 4021
registered nurse, for a fee, salary, or other consideration, or as 4022
a volunteer, without holding a current, valid license as a 4023
registered nurse under this chapter. 4024

(B) No person shall engage in the practice of nursing as a 4025
licensed practical nurse, represent the person as being a licensed 4026
practical nurse, or use the title "licensed practical nurse," the 4027
initials "L.P.N.," or any other title implying that the person is 4028
a licensed practical nurse, for a fee, salary, or other 4029
consideration, or as a volunteer, without holding a current, valid 4030
license as a practical nurse under this chapter. 4031

(C) No person shall use the titles or initials "graduate 4032
nurse," "G.N.," "professional nurse," "P.N.," "graduate practical 4033
nurse," "G.P.N.," "practical nurse," "P.N.," "trained nurse," 4034
"T.N.," or any other statement, title, or initials that would 4035
imply or represent to the public that the person is authorized to 4036
practice nursing in this state, except as follows: 4037

(1) A person licensed under this chapter to practice nursing 4038
as a registered nurse may use that title and the initials "R.N.;" 4039

(2) A person licensed under this chapter to practice nursing 4040
as a licensed practical nurse may use that title and the initials 4041
"L.P.N."; 4042

(3) A person authorized under this chapter to practice 4043
nursing as a certified registered nurse anesthetist may use that 4044
title, the initials "C.R.N.A." or "N.A.," and any other title or 4045
initials approved by the board of nursing; 4046

(4) A person authorized under this chapter to practice 4047
nursing as a clinical nurse specialist may use that title, the 4048
initials "C.N.S.," and any other title or initials approved by the 4049
board; 4050

(5) A person authorized under this chapter to practice 4051
nursing as a certified nurse-midwife may use that title, the 4052
initials "C.N.M.," and any other title or initials approved by the 4053
board; 4054

(6) A person authorized under this chapter to practice 4055
nursing as a certified nurse practitioner may use that title, the 4056
initials "C.N.P.," and any other title or initials approved by the 4057
board; 4058

(7) A person authorized under this chapter to practice as a 4059
certified registered nurse anesthetist, clinical nurse specialist, 4060
certified nurse-midwife, or certified nurse practitioner may use 4061
the title "advanced practice registered nurse" or the initials 4062
"A.P.R.N." 4063

(D) No person shall employ a person not licensed as a 4064
registered nurse under this chapter to engage in the practice of 4065
nursing as a registered nurse. No person shall employ a person not 4066
licensed as a practical nurse under this chapter to engage in the 4067
practice of nursing as a licensed practical nurse. 4068

(E) No person shall sell or fraudulently obtain or furnish 4069
any nursing diploma, license, certificate, renewal, or record, or 4070

aid or abet such acts. 4071

Sec. 4723.06. (A) The board of nursing shall: 4072

(1) Administer and enforce the provisions of this chapter, 4073
including the taking of disciplinary action for violations of 4074
section 4723.28 of the Revised Code, any other provisions of this 4075
chapter, or rules adopted under this chapter; 4076

(2) Develop criteria that an applicant must meet to be 4077
eligible to sit for the examination for licensure to practice as a 4078
registered nurse or as a licensed practical nurse; 4079

(3) Issue and renew nursing licenses, dialysis technician 4080
certificates, and community health worker certificates, as 4081
provided in this chapter; 4082

(4) Define the minimum ~~curricula and~~ standards for 4083
educational programs of the schools of ~~professional~~ registered 4084
nursing and schools of practical nursing in this state; 4085

(5) Survey, inspect, and grant full approval to prelicensure 4086
nursing education programs in this state that meet the standards 4087
established by rules adopted under section 4723.07 of the Revised 4088
Code. Prelicensure nursing education programs include, but are not 4089
limited to, diploma, associate degree, baccalaureate degree, 4090
~~diploma~~ master's degree, and doctor of nursing programs leading to 4091
initial licensure to practice nursing as a registered nurse and 4092
practical nurse programs leading to initial licensure to practice 4093
nursing as a licensed practical nurse. 4094

(6) Grant conditional approval, by a vote of a quorum of the 4095
board, to a new prelicensure nursing education program or a 4096
program that is being reestablished after having ceased to 4097
operate, if the program meets and maintains the minimum standards 4098
of the board established by rules adopted under section 4723.07 of 4099
the Revised Code. If the board does not grant conditional 4100

approval, it shall hold an adjudication under Chapter 119. of the 4101
Revised Code to consider conditional approval of the program. If 4102
the board grants conditional approval, at ~~its~~ the first meeting 4103
~~after the first class has completed the program following~~ 4104
completion of the survey process required by division (A)(5) of 4105
this section, the board shall determine whether to grant full 4106
approval to the program. If the board does not grant full approval 4107
or if it appears that the program has failed to meet and maintain 4108
standards established by rules adopted under section 4723.07 of 4109
the Revised Code, the board shall hold an adjudication under 4110
Chapter 119. of the Revised Code to consider the program. Based on 4111
results of the adjudication, the board may continue or withdraw 4112
conditional approval, or grant full approval. 4113

(7) Place on provisional approval, for a period of time 4114
specified by the board, a program that has ceased to meet and 4115
maintain the minimum standards of the board established by rules 4116
adopted under section 4723.07 of the Revised Code. ~~At~~ Prior to or 4117
at the end of the period, the board shall reconsider whether the 4118
program meets the standards and shall grant full approval if it 4119
does. If it does not, the board may withdraw approval, pursuant to 4120
an adjudication under Chapter 119. of the Revised Code. 4121

(8) Approve continuing ~~nursing~~ education programs and courses 4122
under standards established in rules adopted under ~~section~~ 4123
sections 4723.07, 4723.69, 4723.79, and 4723.88 of the Revised 4124
Code; 4125

(9) ~~Approve peer support programs, under rules adopted under~~ 4126
~~section 4723.07 of the Revised Code, for nurses, for dialysis~~ 4127
~~technicians, and for certified community health workers;~~ 4128

~~(10)~~ Establish a program for monitoring chemical dependency 4129
in accordance with section 4723.35 of the Revised Code; 4130

~~(11)~~(10) Establish the practice intervention and improvement 4131

program in accordance with section 4723.282 of the Revised Code; 4132

~~(12)~~(11) Issue and renew certificates of authority to 4133
practice nursing as a certified registered nurse anesthetist, 4134
clinical nurse specialist, certified nurse-midwife, or certified 4135
nurse practitioner; 4136

~~(13)~~(12) Approve under section 4723.46 of the Revised Code 4137
national certifying organizations for examination and 4138
certification of certified registered nurse anesthetists, clinical 4139
nurse specialists, certified nurse-midwives, or certified nurse 4140
practitioners; 4141

~~(14)~~(13) Issue and renew certificates to prescribe in 4142
accordance with sections 4723.48 and 4723.486 of the Revised Code; 4143

~~(15)~~(14) Grant approval to the planned classroom and clinical 4144
study required by section 4723.482 of the Revised Code to be 4145
eligible for a certificate to prescribe; 4146

~~(16)~~(15) Make an annual edition of the formulary established 4147
in rules adopted under section 4723.50 of the Revised Code 4148
available to the public either in printed form or by electronic 4149
means and, as soon as possible after any revision of the formulary 4150
becomes effective, make the revision available to the public in 4151
printed form or by electronic means; 4152

~~(17)~~(16) Provide guidance and make recommendations to the 4153
general assembly, the governor, state agencies, and the federal 4154
government with respect to the regulation of the practice of 4155
nursing and the enforcement of this chapter; 4156

~~(18)~~(17) Make an annual report to the governor, which shall 4157
be open for public inspection; 4158

~~(19)~~(18) Maintain and have open for public inspection the 4159
following records: 4160

(a) A record of all its meetings and proceedings; 4161

(b) A ~~file record of all applicants for, and holders of~~ 4162
~~nursing, licenses, registrations, and certificates granted under~~ 4163
~~this chapter; dialysis technician certificates granted under this~~ 4164
~~chapter; and community health worker certificates granted issued~~ 4165
~~by the board~~ under this chapter. ~~The file shall be maintained in~~ 4166
~~the form prescribed by rule of the board or in accordance with~~ 4167
~~rules adopted under this chapter. The record shall be maintained~~ 4168
~~in a format determined by the board.~~ 4169

(c) A list of ~~prelicensure nursing~~ education and training 4170
programs approved by the board; 4171

~~(d) A list of approved peer support programs for nurses,~~ 4172
~~dialysis technicians, and certified community health workers.~~ 4173

(19) Deny approval to a person who submits or causes to be 4174
submitted false, misleading, or deceptive statements, information, 4175
or documentation to the board in the process of applying for 4176
approval of a new education or training program. If the board 4177
proposes to deny approval of a new education or training program, 4178
it shall do so pursuant to an adjudication conducted under Chapter 4179
119. of the Revised Code. 4180

(B) The board may fulfill the requirement of division (A)(8) 4181
of this section by authorizing persons who meet the standards 4182
established in rules adopted under section 4723.07 of the Revised 4183
Code to approve continuing ~~nursing~~ education programs and courses. 4184
Persons so authorized shall approve continuing ~~nursing~~ education 4185
programs and courses in accordance with standards established in 4186
rules adopted under section 4723.07 of the Revised Code. 4187

Persons seeking authorization to approve continuing ~~nursing~~ 4188
education programs and courses shall apply to the board and pay 4189
the appropriate fee established under section 4723.08 of the 4190
Revised Code. Authorizations to approve continuing ~~nursing~~ 4191
education programs and courses shall expire, and may be renewed 4192

according to the schedule established in rules adopted under 4193
section 4723.07 of the Revised Code. 4194

In addition to approving continuing ~~nursing~~ education 4195
programs under division (A)(8) of this section, the board may 4196
sponsor continuing education activities that are directly related 4197
to the statutes and rules ~~pertaining to the practice of nursing in~~ 4198
~~this state~~ the board enforces. 4199

Sec. 4723.063. (A) As used in this section: 4200

(1) "Health care facility" means: 4201

(a) A hospital registered under section 3701.07 of the 4202
Revised Code; 4203

(b) A nursing home licensed under section 3721.02 of the 4204
Revised Code, or by a political subdivision certified under 4205
section 3721.09 of the Revised Code; 4206

(c) A county home or a county nursing home as defined in 4207
section 5155.31 of the Revised Code that is certified under Title 4208
XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 4209
U.S.C. 301, as amended; 4210

(d) A freestanding dialysis center; 4211

(e) A freestanding inpatient rehabilitation facility; 4212

(f) An ambulatory surgical facility; 4213

(g) A freestanding cardiac catheterization facility; 4214

(h) A freestanding birthing center; 4215

(i) A freestanding or mobile diagnostic imaging center; 4216

(j) A freestanding radiation therapy center. 4217

(2) "Nurse education program" means a prelicensure nurse 4218
education program approved by the board of nursing under section 4219
4723.06 of the Revised Code or a postlicensure nurse education 4220

program approved by the board of regents under section 3333.04 of 4221
the Revised Code. 4222

(B) The state board of nursing shall establish and administer 4223
the nurse education grant program. Under the program, the board 4224
shall award grants to nurse education programs that have 4225
partnerships with other education programs, community health 4226
agencies, ~~or~~ health care facilities, or patient centered medical 4227
homes. Grant recipients shall use the money to fund partnerships 4228
to increase the nurse education program's enrollment capacity. 4229
Methods of increasing a program's enrollment capacity may include 4230
hiring faculty and preceptors, purchasing educational equipment 4231
and materials, and other actions acceptable to the board. Grant 4232
money shall not be used to construct or renovate buildings. 4233
Partnerships may be developed between one or more nurse education 4234
programs and one or more health care facilities. 4235

In awarding grants, the board shall give preference to 4236
partnerships between nurse education programs and hospitals, 4237
nursing homes, and county homes or county nursing homes, but may 4238
also award grants to fund partnerships between nurse education 4239
programs and other health care facilities and between nurse 4240
education programs and patient centered medical homes. 4241

(C) The board shall adopt rules in accordance with Chapter 4242
119. of the Revised Code establishing the following: 4243

(1) Eligibility requirements for receipt of a grant; 4244

(2) Grant application forms and procedures; 4245

(3) The amounts in which grants may be made and the total 4246
amount that may be awarded to a nurse education program that has a 4247
partnership with other education programs, a community health 4248
agency, ~~or~~ a health care facility, or a patient centered medical 4249
home; 4250

(4) A method whereby the board may evaluate the effectiveness 4251

of a partnership between joint recipients in increasing the nurse 4252
education program's enrollment capacity; 4253

(5) The percentage of the money in the fund that must remain 4254
in the fund at all times to maintain a fiscally responsible fund 4255
balance; 4256

(6) The percentage of available grants to be awarded to 4257
licensed practical nurse education programs, registered nurse 4258
education programs, and graduate programs; 4259

(7) Any other matters incidental to the operation of the 4260
program. 4261

(D) ~~From January 1, 2004, until~~ Until December 31, ~~2013~~ 2023, 4262
~~the~~ ten dollars of each biennial nursing license renewal fee 4263
collected under section 4723.08 of the Revised Code shall be 4264
dedicated to the nurse education grant program fund, which is 4265
hereby created in the state treasury. The board shall use money in 4266
the fund for grants awarded under division (A) of this section and 4267
for expenses of administering the grant program. The amount used 4268
for administrative expenses in any year shall not exceed ten per 4269
cent of the amount transferred to the fund in that year. 4270

(E) Each quarter, for the purposes of transferring funds to 4271
the nurse education grant program, the board of nursing shall 4272
certify to the director of budget and management the number of 4273
biennial licenses renewed under this chapter during the preceding 4274
quarter and the amount equal to that number times ten dollars. 4275

(F) Notwithstanding the requirements of section 4743.05 of 4276
the Revised Code, from January 1, 2004, until December 31, ~~2013~~ 4277
2023, at the end of each quarter, the director of budget and 4278
management shall transfer from the occupational licensing and 4279
regulatory fund to the nurse education grant program fund the 4280
amount certified under division (E) of this section. 4281

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:	4282
	4283
	4284
(A) Provisions for the board's government and control of its actions and business affairs;	4285
	4286
(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;	4287
	4288
	4289
	4290
(C) Criteria that applicants for licensure must meet to be eligible to take examinations for licensure;	4291
	4292
(D) Standards and procedures for renewal of the licenses and certificates issued by the board;	4293
	4294
(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.	4295
	4296
	4297
	4298
	4299
	4300
	4301
	4302
	4303
	4304
(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;	4305
	4306
	4307
	4308
(G) Requirements, including continuing education requirements, for restoring reactivating inactive nursing licenses, dialysis technician certificates, and community health	4309
	4310
	4311

~~worker or~~ certificates, and for ~~restoring nursing~~ reinstating 4312
licenses, ~~dialysis technician certificates, and community health~~ 4313
~~worker or~~ certificates that have lapsed ~~through failure to renew;~~ 4314

(H) Conditions that may be imposed for reinstatement of a 4315
~~nursing license, dialysis technician certificate, or community~~ 4316
~~health worker or~~ certificate following action taken under section 4317
3123.47, 4723.28, 4723.281, 4723.652, or 4723.86 of the Revised 4318
Code resulting in a license or certificate suspension; 4319

~~(I) Standards for approval of peer support programs for~~ 4320
~~persons who hold a nursing license, dialysis technician~~ 4321
~~certificate, or community health worker certificate;~~ 4322

~~(J)~~ Requirements for board approval of courses in medication 4323
administration by licensed practical nurses; 4324

~~(K)~~(J) Criteria for evaluating the qualifications of an 4325
applicant for a license to practice nursing as a registered nurse 4326
~~or, a license to practice nursing as a~~ licensed practical nurse, 4327
or a certificate of authority issued under division ~~(E)~~(B) of 4328
section 4723.41 of the Revised Code, ~~a dialysis technician~~ 4329
~~certificate, or a community health worker certificate~~ for the 4330
purpose of issuing the license or certificate by the board's 4331
endorsement of the applicant's authority to practice issued by the 4332
licensing agency of another state; 4333

~~(L)~~(K) Universal ~~blood and body fluid~~ standard precautions 4334
that shall be used by each ~~person holding a nursing license~~ 4335
licensee or ~~dialysis technician certificate issued under this~~ 4336
~~chapter who performs exposure prone invasive procedures~~ holder. 4337
The rules shall define and establish requirements for universal 4338
~~blood and body fluid~~ standard precautions that include the 4339
following: 4340

(1) Appropriate use of hand washing; 4341

(2) Disinfection and sterilization of equipment; 4342

(3) Handling and disposal of needles and other sharp instruments; 4343
4344

(4) Wearing and disposal of gloves and other protective garments and devices. 4345
4346

~~(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; 4347
4348
4349
4350
4351

~~(N)~~(M) Quality assurance standards for certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners; 4352
4353
4354

~~(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; 4355
4356
4357
4358
4359

~~(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; 4360
4361
4362
4363
4364
4365

~~(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. 4366
4367
4368
4369

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. 4370
4371
4372

Sec. 4723.08. (A) The board of nursing may impose fees not to exceed the following limits:	4373 4374
(1) For application for licensure by examination to practice nursing as a registered nurse or as a licensed practical nurse, seventy-five dollars;	4375 4376 4377
(2) For application for licensure by endorsement to practice nursing as a registered nurse or as a licensed practical nurse, seventy-five dollars;	4378 4379 4380
(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;	4381 4382 4383 4384
(4) For application for a temporary dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;	4385 4386 4387
(5) For application for a full dialysis technician certificate, the amount specified in rules adopted under section 4723.79 of the Revised Code;	4388 4389 4390
(6) For application for a certificate to prescribe, fifty dollars;	4391 4392
(7) For <u>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</u> to another jurisdiction, fifteen dollars;	4393 4394 4395 4396 4397 4398
(8) For <u>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</u>	4399 4400 4401 4402

~~frameable wall certificate suitable for framing as described in~~ 4403
~~that division, twenty-five dollars;~~ 4404

~~(9) For biennial renewal of a nursing license that expires on~~ 4405
~~or after August 31, 2003, but before January 1, 2004, forty five~~ 4406
~~dollars;~~ 4407

~~(10) For biennial renewal of a nursing license that expires~~ 4408
~~on or after January 1, 2004, sixty-five dollars;~~ 4409

~~(11) For biennial renewal of a certificate of authority to~~ 4410
~~practice nursing as a certified registered nurse anesthetist,~~ 4411
~~clinical nurse specialist, certified nurse mid wife, or certified~~ 4412
~~nurse practitioner that expires on or before August 31, 2005, one~~ 4413
~~hundred dollars;~~ 4414

~~(12)(10) For biennial renewal of a certificate of authority~~ 4415
~~to practice nursing as a certified registered nurse anesthetist,~~ 4416
~~clinical nurse specialist, certified nurse-midwife, or certified~~ 4417
~~nurse practitioner that expires on or after September 1, 2005,~~ 4418
~~eighty-five dollars;~~ 4419

~~(13)(11) For renewal of a certificate to prescribe, fifty~~ 4420
~~dollars;~~ 4421

~~(14)(12) For biennial renewal of a dialysis technician~~ 4422
~~certificate, the amount specified in rules adopted under section~~ 4423
~~4723.79 of the Revised Code;~~ 4424

~~(15)(13) For processing a late application for renewal of a~~ 4425
~~nursing license, certificate of authority, or dialysis technician~~ 4426
~~certificate, fifty dollars;~~ 4427

~~(16)(14) For application for authorization to approve~~ 4428
~~continuing nursing education programs and courses from an~~ 4429
~~applicant accredited by a national accreditation system for~~ 4430
~~nursing, five hundred dollars;~~ 4431

~~(17)(15) For application for authorization to approve~~ 4432

continuing ~~nursing~~ education programs and courses from an 4433
applicant not accredited by a national accreditation system for 4434
nursing, one thousand dollars; 4435

~~(18)~~(16) For each year for which authorization to approve 4436
continuing ~~nursing~~ education programs and courses is renewed, one 4437
hundred fifty dollars; 4438

~~(19)~~(17) For application for approval to operate a dialysis 4439
training program, the amount specified in rules adopted under 4440
section 4723.79 of the Revised Code; 4441

~~(20)~~(18) For reinstatement of a lapsed ~~nursing~~ license, 4442
~~certificate of authority, or dialysis technician certificate~~ 4443
issued under this chapter, one hundred dollars except as provided 4444
in section 5903.10 of the Revised Code; 4445

~~(21)~~(19) For written verification of a ~~nursing~~ license, 4446
~~certificate of authority, or dialysis technician certificate,~~ when 4447
the verification is performed for purposes other than providing 4448
verification to another jurisdiction, five dollars; 4449

~~(22)~~(20) For processing a check returned to the board by a 4450
financial institution as ~~noncollectible~~, twenty-five dollars; 4451

~~(23)~~ For issuance of an intravenous therapy card for which a 4452
~~fee may be charged under section 4723.17 of the Revised Code,~~ 4453
~~twenty five dollars;~~ 4454

~~(24)~~ For out of state survey visits of nursing education 4455
~~programs operating in Ohio, two thousand dollars;~~ 4456

~~(25)~~(21) The amounts specified in rules adopted under section 4457
4723.88 of the Revised Code pertaining to the issuance of 4458
certificates to community health workers, including fees for 4459
application for a certificate, ~~verification of a certificate to~~ 4460
~~another jurisdiction, written verification of a certificate when~~ 4461
~~the verification is performed for purposes other than verification~~ 4462

~~to another jurisdiction, providing a replacement copy of a~~ 4463
~~certificate,~~ biennial renewal of a certificate, processing a late 4464
application for renewal of a certificate, reinstatement of a 4465
lapsed certificate, application for approval of a community health 4466
worker training program for community health workers, and biennial 4467
renewal of the approval of a training program for community health 4468
workers. 4469

(B) Each quarter, for purposes of transferring funds under 4470
section 4743.05 of the Revised Code to the nurse education 4471
assistance fund created in section 3333.28 of the Revised Code, 4472
the board of nursing shall certify to the director of budget and 4473
management the number of biennial licenses renewed under this 4474
chapter during the preceding quarter and the amount equal to that 4475
number times five dollars. 4476

(C) The board may charge a participant in a board-sponsored 4477
continuing education activity an amount not exceeding fifteen 4478
dollars for each activity. 4479

(D) The board may contract for services pertaining to the 4480
process of providing written verification of a ~~nursing~~ license, 4481
~~certificate of authority, dialysis technician certificate, or~~ 4482
~~community health worker~~ certificate when the verification is 4483
performed for purposes other than providing verification to 4484
another jurisdiction. The contract may include provisions 4485
pertaining to the collection of the fee charged for providing the 4486
written verification. As part of these provisions, the board may 4487
permit the contractor to retain a portion of the fees as 4488
compensation, before any amounts are deposited into the state 4489
treasury. 4490

Sec. 4723.09. (A)(1) An application for licensure by 4491
examination to practice as a registered nurse or as a licensed 4492
practical nurse shall be submitted to the board of nursing in the 4493

form prescribed by rules of the board. The application shall 4494
include evidence that the applicant has completed ~~requirements of~~ 4495
a nursing education program approved by the board ~~or approved by~~ 4496
~~another jurisdiction's~~ under division (A) of section 4723.06 of 4497
the Revised Code or by a board that regulates nurse licensure of 4498
another jurisdiction that is a member of the national council of 4499
state boards of nursing. The application also shall include any 4500
other information required by rules of the board. The application 4501
shall be accompanied by the application fee required by section 4502
4723.08 of the Revised Code. 4503

(2) The board shall grant a license to practice nursing as a 4504
registered nurse or as a licensed practical nurse if all of the 4505
following apply: 4506

(a) For all applicants, the applicant passes the examination 4507
accepted by the board under section 4723.10 of the Revised Code. 4508

(b) For an applicant who entered a prelicensure nursing 4509
education program on or after June 1, 2003, the results of a 4510
~~criminal records check of the applicant that is completed by the~~ 4511
~~bureau of criminal identification and investigation and includes a~~ 4512
~~check of federal bureau of investigation records and that the~~ 4513
~~bureau submits to the board indicates that the applicant has not~~ 4514
~~been convicted of, has not pleaded guilty to, and has not had a~~ 4515
~~judicial finding of guilt for violating section 2903.01, 2903.02,~~ 4516
~~2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02,~~ 4517
~~2911.01, or 2911.11 of the Revised Code or a substantially similar~~ 4518
~~law of another state, the United States, or another country~~ 4519
conducted in accordance with section 4723.091 of the Revised Code 4520
demonstrate that the applicant is not ineligible for licensure as 4521
specified in section 4723.092 of the Revised Code. 4522

(c) For all applicants, the board determines that the 4523
applicant has not committed any act that is grounds for 4524
disciplinary action under section 3123.47 or 4723.28 of the 4525

Revised Code or determines that an applicant who has committed any 4526
act that is grounds for disciplinary action under either section 4527
has made restitution or has been rehabilitated, or both. 4528

(d) For all applicants, the applicant is not required to 4529
register under Chapter 2950. of the Revised Code or a 4530
substantially similar law of another state, the United States, or 4531
another country. 4532

(3) The board is not required to afford an adjudication to an 4533
individual to whom it has refused to grant a license because of 4534
that individual's failure to pass the examination. 4535

(B)(1) An application for license by endorsement to practice 4536
nursing as a registered nurse or as a licensed practical nurse 4537
shall be submitted to the board in the form prescribed by rules of 4538
the board ~~and shall be accompanied by the application fee required~~ 4539
~~by section 4723.08 of the Revised Code.~~ The application shall 4540
include evidence that the applicant holds a current, valid, and 4541
unrestricted license ~~in good standing~~ in another jurisdiction 4542
granted after passing an examination approved by the board of that 4543
jurisdiction that is equivalent to the examination requirements 4544
under this chapter for a license to practice nursing as a 4545
registered nurse or licensed practical nurse ~~and.~~ The application 4546
shall include any other information required by rules of the board 4547
~~of nursing.~~ The application shall be accompanied by the 4548
application fee required by section 4723.08 of the Revised Code. 4549

(2) The board shall grant a license by endorsement to 4550
practice nursing as a registered nurse or as a licensed practical 4551
nurse if the applicant is licensed or certified by another 4552
~~jurisdiction and the board determines, pursuant to rules~~ 4553
~~established under section 4723.07 of the Revised Code, that all of~~ 4554
the following apply: 4555

~~(1)(a) For all applicants, the educational preparation of the 4556~~

applicant is ~~substantially similar to the minimum curricula and~~ 4557
~~standards for~~ provides evidence satisfactory to the board that the 4558
applicant has successfully completed a nursing education programs 4559
~~established by~~ program approved by the board under division (A) of 4560
section ~~4723.07~~ 4723.06 of the Revised Code or by a board of 4561
another jurisdiction that is a member of the national council of 4562
state boards of nursing. 4563

~~(2)~~(b) For all applicants, the examination, at the time it is 4564
successfully completed, is equivalent to the examination 4565
requirements in effect at that time for applicants who were 4566
licensed by examination in this state. 4567

~~(3)~~(c) For all applicants, the board determines there is 4568
sufficient evidence that the applicant completed two contact hours 4569
of continuing education directly related to this chapter or the 4570
rules adopted under it. 4571

(d) For all applicants, the results of a criminal records 4572
~~check of the applicant that is completed by the bureau of criminal~~ 4573
~~identification and investigation and includes a check of federal~~ 4574
~~bureau of investigation records and that the bureau submits to the~~ 4575
~~board indicates that the applicant has not been convicted of, has~~ 4576
~~not pleaded guilty to, and has not had a judicial finding of guilt~~ 4577
~~for violating section 2903.01, 2903.02, 2903.03, 2903.11, 2905.01,~~ 4578
~~2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 of the~~ 4579
~~Revised Code or a substantially similar law of another state, the~~ 4580
~~United States, or another country~~ conducted in accordance with 4581
section 4723.091 of the Revised Code demonstrate that the 4582
applicant is not ineligible for licensure as specified in section 4583
4723.092 of the Revised Code. 4584

~~(4)~~(e) For all applicants, the applicant has not committed 4585
any act that is grounds for disciplinary action under section 4586
3123.47, or 4723.28, ~~or 4723.281~~ of the Revised Code, or the board 4587
determines that an applicant who has committed any act that is 4588

grounds for disciplinary action under ~~any~~ either of those sections 4589
has made restitution or has been rehabilitated, or both. 4590

(f) For all applicants, the applicant is not required to 4591
register under Chapter 2950. of the Revised Code, or a 4592
substantially similar law of another state, the United States, or 4593
another country. 4594

(C) The board may grant a nonrenewable temporary permit to 4595
practice nursing as a registered nurse or as a licensed practical 4596
nurse to an applicant for license by endorsement if the board is 4597
satisfied by the evidence that the applicant holds a current, 4598
active valid, and unrestricted license in good standing in another 4599
jurisdiction. Subject to earlier automatic termination as 4600
described in this paragraph, the temporary permit shall expire at 4601
the earlier of one hundred eighty days after issuance or upon the 4602
issuance of a license by endorsement. The temporary permit shall 4603
terminate automatically if the criminal records check completed by 4604
the bureau of criminal identification and investigation as 4605
described in ~~this~~ section 4723.091 of the Revised Code regarding 4606
the applicant indicates that the applicant ~~previously has been~~ 4607
~~convicted of, pleaded guilty to, or had a judicial finding of~~ 4608
~~guilt for a violation of section 2903.01, 2903.02, 2903.03,~~ 4609
~~2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or~~ 4610
~~2911.11 of the Revised Code or a substantially similar law of~~ 4611
~~another state, the United States, or another country~~ is ineligible 4612
for licensure as specified in section 4723.092 of the Revised 4613
Code. An applicant whose temporary permit is automatically 4614
terminated is permanently prohibited from obtaining a license to 4615
practice nursing in this state as a registered nurse or as a 4616
licensed practical nurse. 4617

~~(C) An applicant under this section shall submit a request to 4618~~
~~the bureau of criminal identification and investigation for a 4619~~
~~criminal records check of the applicant. The request shall be on 4620~~

~~the form prescribed pursuant to division (C)(1) of section 109.572 4621
of the Revised Code, accompanied by a standard impression sheet to 4622
obtain fingerprints prescribed pursuant to division (C)(2) of that 4623
section, and accompanied by the fee prescribed pursuant to 4624
division (C)(3) of that section. Upon receipt of the completed 4625
form, the completed impression sheet, and the fee, the bureau 4626
shall conduct a criminal records check of the applicant. Upon 4627
completion of the criminal records check, the bureau shall send 4628
the results of the check to the board. An applicant requesting a 4629
criminal records check under this division shall ask the 4630
superintendent of the bureau of criminal identification and 4631
investigation to also request the federal bureau of investigation 4632
to provide the superintendent with any information it has with 4633
respect to the applicant. 4634~~

~~The results of any criminal records check conducted pursuant 4635
to a request made under this section, and any report containing 4636
those results, are not public records for purposes of section 4637
149.43 of the Revised Code and shall not be made available to any 4638
person or for any purpose other than the following: 4639~~

~~(1) The results may be made available to any person for use 4640
in determining under this section and division (N) of section 4641
4723.28 of the Revised Code whether the individual who is the 4642
subject of the check should be granted a license to practice 4643
nursing as a registered nurse or as a licensed practical nurse or 4644
whether any temporary permit granted to the individual under this 4645
section has terminated automatically. 4646~~

~~(2) The results may be made available to the individual who 4647
is the subject of the check or that individual's representative. 4648~~

Sec. 4723.091. (A) An individual who applies for licensure 4649
under section 4723.09 of the Revised Code; issuance of a 4650
certificate under section 4723.651, 4723.75, 4723.76, or 4723.85 4651

of the Revised Code; reactivation of a license, under division (D) 4652
of section 4723.24 of the Revised Code, that has been inactive for 4653
at least five years; or reinstatement of a license, under division 4654
(D) of section 4723.24 of the Revised Code, that has been expired 4655
for at least five years shall submit a request to the bureau of 4656
criminal identification and investigation for a criminal records 4657
check of the applicant. The request shall be made in accordance 4658
with section 109.572 of the Revised Code. 4659

(B) An applicant requesting a criminal records check under 4660
division (A) of this section shall also ask the superintendent of 4661
the bureau of criminal identification and investigation to request 4662
that the federal bureau of investigation send to the 4663
superintendent any information the federal bureau of investigation 4664
has with respect to the applicant. 4665

(C) On receipt of all items required for the commencement of 4666
a criminal records check pursuant to division (A) of this section, 4667
the bureau of criminal identification and investigation shall 4668
conduct a criminal records check of the applicant. On the 4669
completion of the criminal records check, the bureau shall send 4670
the results to the board of nursing. 4671

(D) The results of a criminal records check conducted 4672
pursuant to a request made under division (A) of this section, and 4673
any report containing those results, are not public records for 4674
purposes of section 149.43 of the Revised Code and shall not be 4675
made available to any person or for any purpose other than the 4676
following: 4677

(1) The results may be made available to any person for use 4678
in determining under section 4723.09, 4723.651, 4723.75, 4723.76, 4679
or 4723.85 of the Revised Code whether the individual who is the 4680
subject of the check should be granted a license or certificate 4681
under this chapter or whether any temporary permit granted to the 4682
individual under either of the following has terminated 4683

automatically: 4684

(a) Section 4723.09 of the Revised Code; 4685

(b) Section 4723.76 of the Revised Code as that section
existed at any time before the effective date of this section. 4686
4687

(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. 4688
4689
4690
4691
4692

(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. 4693
4694
4695
4696

(4) The results may be made available to the individual who
is the subject of the check or that individual's representative. 4697
4698

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: 4699
4700
4701
4702
4703
4704
4705

(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; 4706
4707
4708

(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. 4709
4710
4711

Sec. 4723.17. The board of nursing shall authorize a licensed 4712

practical nurse to administer medications if the nurse supplies 4713
evidence satisfactory to the board that either of the following is 4714
the case: 4715

(A) The nurse successfully completed, within a practical 4716
nurse prelicensure education program approved by the board or by 4717
another jurisdiction's agency that regulates the practice of 4718
nursing, a course in basic pharmacology. 4719

(B) The nurse successfully completed a postlicensure course 4720
in basic pharmacology that is acceptable to the board. 4721

Sec. ~~4723.17~~ 4723.18. (A) The board of nursing ~~may~~ shall 4722
authorize a licensed practical nurse to administer to an adult 4723
intravenous therapy ~~authorized by an individual who is authorized~~ 4724
~~to practice in this state and is acting within the course of the~~ 4725
~~individual's professional practice,~~ if the ~~licensed practical~~ 4726
nurse ~~has a current, valid license issued under this chapter that~~ 4727
~~includes authorization to administer medications and one~~ supplies 4728
evidence satisfactory to the board that all of the following ~~is~~ 4729
are the case: 4730

(1) The nurse holds a current, valid license issued under 4731
this chapter to practice nursing as a licensed practical nurse. 4732

(2) The nurse has been authorized under section 4723.18 of 4733
the Revised Code to administer medications. 4734

(3) The nurse ~~has~~ successfully completed, ~~within a practical~~ 4735
~~nurse prelicensure education program~~ a course of study in the safe 4736
performance of intravenous therapy approved by the board ~~or by~~ 4737
~~another jurisdiction's agency that regulates the practice of~~ 4738
~~nursing, a course of study that prepares the nurse to safely~~ 4739
~~perform the intravenous therapy procedures the board may authorize~~ 4740
~~under this section. To meet this requirement, the course of study~~ 4741
~~must include all of the following:~~ 4742

~~(a) Both didactic and clinical components;~~ 4743

~~(b) Curriculum requirements established in rules the board of nursing shall adopt in accordance with Chapter 119. of the Revised Code;~~ 4744
4745
4746

~~(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.~~ 4747
4748
4749
4750
4751
4752
4753
4754

~~(2)(4)~~ The nurse has successfully completed a minimum of forty hours of training that includes all of the following: 4755
4756

(a) The curriculum established by rules adopted by the board and in effect on January 1, 1999; 4757
4758

(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; 4759
4760
4761
4762

(c) Any other training or instruction the board considers appropriate; 4763
4764

(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. 4765
4766
4767

(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~~ 4768
4769
4770
4771
4772

~~performed in accordance with this section.~~ 4773

~~A licensed practical nurse authorized by the board to perform~~ 4774
~~intravenous therapy may perform an intravenous therapy procedure~~ 4775
~~only~~ at the direction of one of the following: 4776

(1) A licensed physician, dentist, optometrist, or podiatrist 4777
who, except as provided in division (C)(2) of this section, is 4778
present and readily available at the facility where the 4779
intravenous therapy procedure is performed; 4780

(2) A registered nurse in accordance with division (C) of 4781
this section. 4782

(C)(1) Except as provided in division (C)(2) of this section 4783
and section ~~4723.171~~ 4723.181 of the Revised Code, when a licensed 4784
practical nurse authorized by the board to perform intravenous 4785
therapy performs an intravenous therapy procedure at the direction 4786
of a registered nurse, the registered nurse or another registered 4787
nurse shall be readily available at the site where the intravenous 4788
therapy is performed, and before the licensed practical nurse 4789
initiates the intravenous therapy, the registered nurse shall 4790
personally perform an on-site assessment of the ~~individual~~ adult 4791
patient who is to receive the intravenous therapy. 4792

(2) When a licensed practical nurse authorized by the board 4793
to perform intravenous therapy performs an intravenous therapy 4794
procedure in a home as defined in section 3721.10 of the Revised 4795
Code, or in an intermediate care facility for the mentally 4796
retarded as defined in section 5111.20 of the Revised Code, at the 4797
direction of a registered nurse or licensed physician, dentist, 4798
optometrist, or podiatrist, a registered nurse shall be on the 4799
premises of the home or facility or accessible by some form of 4800
telecommunication. 4801

(D) No licensed practical nurse shall perform any of the 4802
following intravenous therapy procedures: 4803

(1) Initiating or maintaining any of the following:	4804
(a) Blood or blood components;	4805
(b) Solutions for total parenteral nutrition;	4806
(c) Any cancer therapeutic medication including, but not limited to, cancer chemotherapy or an anti-neoplastic agent;	4807 4808
(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;	4809 4810 4811 4812 4813 4814 4815
(e) Any investigational or experimental medication.	4816
(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;	4817 4818 4819 4820 4821
(3) Discontinuing a central venous, arterial, or any other line that does not terminate in a peripheral vein;	4822 4823
(4) Initiating or discontinuing a peripherally inserted central catheter;	4824 4825
(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;	4826 4827 4828 4829
(6) Administering medication via the intravenous route, including all of the following activities:	4830 4831
(a) Adding medication to an intravenous solution or to an existing infusion, except that a licensed practical nurse	4832 4833

authorized by the board to perform intravenous therapy may do 4834
either any of the following: 4835

(i) Initiate an intravenous infusion containing one or more 4836
of the following elements: dextrose 5%+ normal saline+ lactated 4837
ringers+ sodium chloride .45%+ sodium chloride 0.2%+ sterile 4838
water+ ; 4839

(ii) Hang subsequent containers of the intravenous solutions 4840
specified in division (D)(6)(a)(i) of this section that contain 4841
vitamins or electrolytes, if a registered nurse initiated the 4842
infusion of that same intravenous solution+ 4843

~~(b) Initiating or maintaining an intravenous piggyback 4844
infusion, except that a licensed practical nurse authorized by the 4845
board to perform intravenous therapy may initiate; 4846~~

(iii) Initiate or maintain an intravenous ~~piggyback~~ infusion 4847
containing an antibiotic additive+ 4848

~~(e)~~(b) Injecting medication via a direct intravenous route, 4849
except that a licensed practical nurse authorized by the board to 4850
perform intravenous therapy may inject heparin or normal saline to 4851
flush an intermittent infusion device or heparin lock including, 4852
but not limited to, bolus or push. 4853

~~(7) Aspirating any intravenous line to maintain patency; 4854~~

~~(8)~~ Changing tubing on any line including, but not limited 4855
to, an arterial line or a central venous line, except that a 4856
licensed practical nurse authorized by the board to perform 4857
intravenous therapy may change tubing on an intravenous line that 4858
terminates in a peripheral vein; 4859

~~(9)~~(8) Programming or setting any function of a patient 4860
controlled infusion pump. 4861

(E) Notwithstanding ~~division~~ divisions (A) and (D) of this 4862
section, at the direction of a physician or a registered nurse, a 4863

licensed practical nurse authorized by the board to perform 4864
intravenous therapy may perform the following activities for the 4865
purpose of performing dialysis: 4866

(1) The routine administration and regulation of saline 4867
solution for the purpose of maintaining an established fluid plan; 4868

(2) The administration of a heparin dose intravenously; 4869

(3) The administration of a heparin dose peripherally via a 4870
fistula needle; 4871

(4) The loading and activation of a constant infusion pump ~~or~~ 4872
~~the;~~ 4873

(5) The intermittent injection of a dose of medication 4874
prescribed by a licensed physician for dialysis that is 4875
administered via the hemodialysis blood circuit and through the 4876
patient's venous access. 4877

(F) No person shall employ or direct a licensed practical 4878
nurse to perform an intravenous therapy procedure without first 4879
verifying that the licensed practical nurse is authorized by the 4880
board to perform intravenous therapy. 4881

~~(G) The board shall issue an intravenous therapy card to the 4882~~
~~licensed practical nurses authorized pursuant to division (A) of 4883~~
~~this section to perform intravenous therapy. A fee for issuing the 4884~~
~~card shall not be charged under section 4723.08 of the Revised 4885~~
~~Code if the licensed practical nurse receives the card by meeting 4886~~
~~the requirements of division (A)(1) of this section. The board 4887~~
~~shall maintain a registry of the names of licensed practical 4888~~
~~nurses who hold intravenous therapy cards.~~ 4889

Sec. ~~4723.171~~ 4723.181. (A) A licensed practical nurse may 4890
perform on any person any of the intravenous therapy procedures 4891
specified in division (B) of this section without receiving 4892
authorization to perform intravenous therapy from the board of 4893

nursing under section ~~4723.17~~ 4723.18 of the Revised Code, if both 4894
of the following apply: 4895

(1) The licensed practical nurse acts at the direction of a 4896
registered nurse or a licensed physician, dentist, optometrist, or 4897
podiatrist and the registered nurse, physician, dentist, 4898
optometrist, or podiatrist is on the premises where the procedure 4899
is to be performed or accessible by some form of 4900
telecommunication. 4901

(2) The licensed practical nurse can demonstrate the 4902
knowledge, skills, and ability to perform the procedure safely. 4903

(B) The intravenous therapy procedures that a licensed 4904
practical nurse may perform pursuant to division (A) of this 4905
section are limited to the following: 4906

(1) Verification of the type of peripheral intravenous 4907
solution being administered; 4908

(2) Examination of a peripheral infusion site and the 4909
extremity for possible infiltration; 4910

(3) Regulation of a peripheral intravenous infusion according 4911
to the prescribed flow rate; 4912

(4) Discontinuation of a peripheral intravenous device at the 4913
appropriate time; 4914

(5) Performance of routine dressing changes at the insertion 4915
site of a peripheral venous or arterial infusion, peripherally 4916
inserted central catheter infusion, or central venous pressure 4917
subclavian infusion. 4918

Sec. 4723.19. (A) A person or government entity seeking 4919
approval to provide a course of study in the safe performance of 4920
intravenous therapy shall apply to the board of nursing in a 4921
manner specified by the board. 4922

(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: 4923
4924
4925
4926

(1) Didactic and clinical components; 4927

(2) Curriculum requirements established in rules the board shall adopt in accordance with Chapter 119. of the Revised Code; 4928
4929

(3) Standards that require the nurse to perform a successful demonstration of the intravenous procedures, including all skills needed to perform them safely. 4930
4931
4932

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. 4933
4934
4935
4936
4937
4938
4939
4940
4941
4942
4943
4944
4945
4946

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 4947
4948
4949
4950
4951
4952
4953

Revised Code. 4954

The license or certificate holder shall complete the renewal 4955
form and return it to the ~~treasurer of state~~ board with the 4956
renewal fee required by section 4723.08 of the Revised Code on or 4957
before the date specified by the board. The license or certificate 4958
holder shall report any conviction, plea, or judicial finding 4959
regarding a criminal offense that constitutes grounds for the 4960
board to impose sanctions under section 4723.28 of the Revised 4961
Code since the holder last submitted an application to the board. 4962

~~The treasurer shall immediately forward the renewal~~ 4963
~~application to the board.~~ On receipt of the renewal application, 4964
the board shall verify ~~that~~ whether the applicant meets the 4965
renewal requirements ~~and~~. If the applicant meets the requirements, 4966
the board shall renew the license or certificate for the following 4967
two-year period. 4968

If a renewal application that meets the renewal requirements 4969
is submitted after the date specified in the board's schedule, but 4970
before expiration of the license or certificate, the board shall 4971
grant a renewal upon payment of the late renewal fee authorized 4972
under section 4723.08 of the Revised Code. 4973

(B) Every license or certificate holder shall give written 4974
notice to the board of any change of name or address within thirty 4975
days of the change. The board shall require the holder to document 4976
a change of name in a manner acceptable to the board. 4977

(C)(1) Except in the case of a first renewal after licensure 4978
by examination, to be eligible for renewal of an active license to 4979
practice nursing as a registered nurse or licensed practical 4980
nurse, each individual who holds an active license shall, in each 4981
two-year period specified by the board, complete continuing 4982
nursing education as follows: 4983

(a) For renewal of a license that was issued for a two-year 4984

renewal period, twenty-four hours of continuing nursing education; 4985

(b) For renewal of a license that was issued for less than a 4986
two-year renewal period, the number of hours of continuing nursing 4987
education specified by the board in rules adopted in accordance 4988
with Chapter 119. of the Revised Code; 4989

(c) Of the hours of continuing nursing education completed in 4990
any renewal period, at least one hour of the education must be 4991
directly related to the statutes and rules pertaining to the 4992
practice of nursing in this state. 4993

(2) The board shall adopt rules establishing the procedure 4994
for a license holder to certify to the board completion of the 4995
required continuing nursing education. The board may conduct a 4996
random sample of license holders and require that the license 4997
holders included in the sample submit satisfactory documentation 4998
of having completed the requirements for continuing nursing 4999
education. On the board's request, a license holder included in 5000
the sample shall submit the required documentation. 5001

(3) An educational activity may be applied toward meeting the 5002
continuing nursing education requirement only if it is obtained 5003
through a program or course approved by the board or a person the 5004
board has authorized to approve continuing nursing education 5005
programs and courses. 5006

(4) The continuing education required of a certified 5007
registered nurse anesthetist, clinical nurse specialist, certified 5008
nurse-midwife, or certified nurse practitioner to ~~obtain or~~ 5009
maintain certification by a national certifying organization shall 5010
be applied toward the continuing education requirements for 5011
renewal of a license to practice nursing as a registered nurse 5012
only if it is obtained through a program or course approved by the 5013
board or a person the board has authorized to approve continuing 5014
nursing education programs and courses. 5015

(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 5047
of nursing, and payment of the fee authorized under section 5048
4723.08 of the Revised Code, the board of nursing shall provide to 5049
the requestor a replacement copy of a nursing license, certificate 5050
of authority, dialysis technician wall certificate, or community 5051
health worker certificate issued under this chapter upon request 5052
of the holder accompanied by proper identification as prescribed 5053
in rules adopted by the board and payment of the fee authorized 5054
under section 4723.08 of the Revised Code suitable for framing. 5055

(B) Upon request of the holder of a nursing license, 5056
certificate of authority, certificate to prescribe, dialysis 5057
technician certificate, medication aide certificate, or community 5058
health worker certificate issued under this chapter and payment of 5059
the fee authorized under section 4723.08 of the Revised Code, the 5060
board shall verify to an agency of another jurisdiction or foreign 5061
country the fact that the person holds such nursing license, 5062
certificate of authority, certificate to prescribe, dialysis 5063
technician certificate, medication aide certificate, or community 5064
health worker certificate. 5065

Sec. 4723.28. (A) The board of nursing, by a vote of a 5066
quorum, may ~~revoke or may refuse to grant a nursing license,~~ 5067
~~certificate of authority, or dialysis technician certificate to a~~ 5068
~~person found by the board to have~~ impose one or more of the 5069
following sanctions if it finds that a person committed fraud in 5070
passing an examination required to obtain ~~the~~ a license, 5071
certificate of authority, or dialysis technician certificate 5072
issued by the board or to have committed fraud, misrepresentation, 5073
or deception in applying for or securing any nursing license, 5074
certificate of authority, or dialysis technician certificate 5075
issued by the board: deny, revoke, suspend, or place restrictions 5076
on any nursing license, certificate of authority, or dialysis 5077
technician certificate issued by the board; reprimand or otherwise 5078

discipline a holder of a nursing license, certificate of 5079
authority, or dialysis technician certificate; or impose a fine of 5080
not more than five hundred dollars per violation. 5081

(B) ~~Subject to division (N) of this section, the~~ The board of 5082
nursing, by a vote of a quorum, may impose one or more of the 5083
following sanctions: deny, revoke, suspend, or place restrictions 5084
on any nursing license, certificate of authority, or dialysis 5085
technician certificate issued by the board; reprimand or otherwise 5086
discipline a holder of a nursing license, certificate of 5087
authority, or dialysis technician certificate; or impose a fine of 5088
not more than five hundred dollars per violation. The sanctions 5089
may be imposed for any of the following: 5090

(1) Denial, revocation, suspension, or restriction of 5091
authority to engage in a licensed profession or practice a health 5092
care occupation, including nursing or practice as a dialysis 5093
technician, for any reason other than a failure to renew, in Ohio 5094
or another state or jurisdiction; 5095

(2) Engaging in the practice of nursing or engaging in 5096
practice as a dialysis technician, having failed to renew a 5097
nursing license or dialysis technician certificate issued under 5098
this chapter, or while a nursing license or dialysis technician 5099
certificate is under suspension; 5100

(3) Conviction of, a plea of guilty to, a judicial finding of 5101
guilt of, a judicial finding of guilt resulting from a plea of no 5102
contest to, or a judicial finding of eligibility for a pretrial 5103
diversion or similar program or for intervention in lieu of 5104
conviction for, a misdemeanor committed in the course of practice; 5105

(4) Conviction of, a plea of guilty to, a judicial finding of 5106
guilt of, a judicial finding of guilt resulting from a plea of no 5107
contest to, or a judicial finding of eligibility for a pretrial 5108
diversion or similar program or for intervention in lieu of 5109

conviction for, any felony or of any crime involving gross 5110
immorality or moral turpitude; 5111

(5) Selling, giving away, or administering drugs or 5112
therapeutic devices for other than legal and legitimate 5113
therapeutic purposes; or conviction of, a plea of guilty to, a 5114
judicial finding of guilt of, a judicial finding of guilt 5115
resulting from a plea of no contest to, or a judicial finding of 5116
eligibility for a pretrial diversion or similar program or for 5117
intervention in lieu of conviction for, violating any municipal, 5118
state, county, or federal drug law; 5119

(6) Conviction of, a plea of guilty to, a judicial finding of 5120
guilt of, a judicial finding of guilt resulting from a plea of no 5121
contest to, or a judicial finding of eligibility for a pretrial 5122
diversion or similar program or for intervention in lieu of 5123
conviction for, an act in another jurisdiction that would 5124
constitute a felony or a crime of moral turpitude in Ohio; 5125

(7) Conviction of, a plea of guilty to, a judicial finding of 5126
guilt of, a judicial finding of guilt resulting from a plea of no 5127
contest to, or a judicial finding of eligibility for a pretrial 5128
diversion or similar program or for intervention in lieu of 5129
conviction for, an act in the course of practice in another 5130
jurisdiction that would constitute a misdemeanor in Ohio; 5131

(8) Self-administering or otherwise taking into the body any 5132
dangerous drug, as defined in section 4729.01 of the Revised Code, 5133
in any way that is not in accordance with a legal, valid 5134
prescription issued for that individual, or self-administering or 5135
otherwise taking into the body any drug that is a schedule I 5136
controlled substance; 5137

(9) Habitual ~~indulgence in the~~ or excessive use of controlled 5138
substances, other habit-forming drugs, or alcohol or other 5139
chemical substances to an extent that impairs ~~ability to practice~~ 5140

<u>the individual's ability to provide safe nursing care or safe</u>	5141
<u>dialysis care;</u>	5142
(10) Impairment of the ability to practice according to	5143
acceptable and prevailing standards of safe nursing care <u>or safe</u>	5144
<u>dialysis care</u> because of habitual or excessive <u>the</u> use of drugs,	5145
alcohol, or other chemical substances that impair the ability to	5146
practice;	5147
(11) Impairment of the ability to practice according to	5148
acceptable and prevailing standards of safe nursing care <u>or safe</u>	5149
<u>dialysis care</u> because of a physical or mental disability;	5150
(12) Assaulting or causing harm to a patient or depriving a	5151
patient of the means to summon assistance;	5152
(13) Obtaining or attempting to obtain <u>Misappropriation or</u>	5153
<u>attempted misappropriation of</u> money or anything of value by	5154
intentional misrepresentation or material deception in the course	5155
of practice;	5156
(14) Adjudication by a probate court of being mentally ill or	5157
mentally incompetent. The board may restore <u>reinstate</u> the person's	5158
nursing license or dialysis technician certificate upon	5159
adjudication by a probate court of the person's restoration to	5160
competency or upon submission to the board of other proof of	5161
competency.	5162
(15) The suspension or termination of employment by the	5163
department of defense or the veterans administration of the United	5164
States for any act that violates or would violate this chapter;	5165
(16) Violation of this chapter or any rules adopted under it;	5166
(17) Violation of any restrictions placed <u>by the board</u> on a	5167
nursing license or dialysis technician certificate by the board;	5168
(18) Failure to use universal blood and body fluid <u>standard</u>	5169
precautions established by rules adopted under section 4723.07 of	5170

the Revised Code;	5171
(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care or safe dialysis care;	5172 5173
(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse;	5174 5175 5176
(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse;	5177 5178 5179
(22) In the case of a dialysis technician, engaging in activities that exceed those permitted under section 4723.72 of the Revised Code;	5180 5181 5182
(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;	5183 5184 5185
(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:	5186 5187 5188 5189
(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;	5190 5191 5192 5193 5194 5195
(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.	5196 5197 5198 5199 5200

(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;	5201 5202 5203
(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;	5204 5205 5206
(27) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:	5207 5208 5209
(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;	5210 5211 5212
(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code.	5213 5214
(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;	5215 5216 5217 5218 5219
(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;	5220 5221 5222 5223 5224
(30) Prescribing any drug or device to perform or induce an abortion, or otherwise performing or inducing an abortion;	5225 5226
(31) Failure to establish and maintain professional boundaries with a patient, as specified in rules adopted under section 4723.07 of the Revised Code;	5227 5228 5229
(32) Regardless of whether the contact or verbal behavior is	5230

consensual, engaging with a patient other than the spouse of the 5231
registered nurse, licensed practical nurse, or dialysis technician 5232
in any of the following: 5233

(a) Sexual contact, as defined in section 2907.01 of the 5234
Revised Code; 5235

(b) Verbal behavior that is sexually demeaning to the patient 5236
or may be reasonably interpreted by the patient as sexually 5237
demeaning. 5238

(33) Assisting suicide as defined in section 3795.01 of the 5239
Revised Code. 5240

(C) Disciplinary actions taken by the board under divisions 5241
(A) and (B) of this section shall be taken pursuant to an 5242
adjudication conducted under Chapter 119. of the Revised Code, 5243
except that in lieu of a hearing, the board may enter into a 5244
consent agreement with an individual to resolve an allegation of a 5245
violation of this chapter or any rule adopted under it. A consent 5246
agreement, when ratified by a vote of a quorum, shall constitute 5247
the findings and order of the board with respect to the matter 5248
addressed in the agreement. If the board refuses to ratify a 5249
consent agreement, the admissions and findings contained in the 5250
agreement shall be of no effect. 5251

(D) The hearings of the board shall be conducted in 5252
accordance with Chapter 119. of the Revised Code, the board may 5253
appoint a hearing examiner, as provided in section 119.09 of the 5254
Revised Code, to conduct any hearing the board is authorized to 5255
hold under Chapter 119. of the Revised Code. 5256

In any instance in which the board is required under Chapter 5257
119. of the Revised Code to give notice of an opportunity for a 5258
hearing and the applicant, licensee, or license certificate holder 5259
does not make a timely request for a hearing in accordance with 5260
section 119.07 of the Revised Code, the board is not required to 5261

hold a hearing, but may adopt, by a vote of a quorum, a final 5262
order that contains the board's findings. In the final order, the 5263
board may order any of the sanctions listed in division (A) or (B) 5264
of this section. 5265

(E) If a criminal action is brought against a registered 5266
nurse, licensed practical nurse, or dialysis technician for an act 5267
or crime described in divisions (B)(3) to (7) of this section and 5268
the action is dismissed by the trial court other than on the 5269
merits, the board shall conduct an adjudication to determine 5270
whether the registered nurse, licensed practical nurse, or 5271
dialysis technician committed the act on which the action was 5272
based. If the board determines on the basis of the adjudication 5273
that the registered nurse, licensed practical nurse, or dialysis 5274
technician committed the act, or if the registered nurse, licensed 5275
practical nurse, or dialysis technician fails to participate in 5276
the adjudication, the board may take action as though the 5277
registered nurse, licensed practical nurse, or dialysis technician 5278
had been convicted of the act. 5279

If the board takes action on the basis of a conviction, plea, 5280
or a judicial finding as described in divisions (B)(3) to (7) of 5281
this section that is overturned on appeal, the registered nurse, 5282
licensed practical nurse, or dialysis technician may, on 5283
exhaustion of the appeal process, petition the board for 5284
reconsideration of its action. On receipt of the petition and 5285
supporting court documents, the board shall temporarily rescind 5286
its action. If the board determines that the decision on appeal 5287
was a decision on the merits, it shall permanently rescind its 5288
action. If the board determines that the decision on appeal was 5289
not a decision on the merits, it shall conduct an adjudication to 5290
determine whether the registered nurse, licensed practical nurse, 5291
or dialysis technician committed the act on which the original 5292
conviction, plea, or judicial finding was based. If the board 5293

determines on the basis of the adjudication that the registered 5294
nurse, licensed practical nurse, or dialysis technician committed 5295
such act, or if the registered nurse, licensed practical nurse, or 5296
dialysis technician does not request an adjudication, the board 5297
shall reinstate its action; otherwise, the board shall permanently 5298
rescind its action. 5299

Notwithstanding the provision of division (C)(2) of section 5300
2953.32 of the Revised Code specifying that if records pertaining 5301
to a criminal case are sealed under that section the proceedings 5302
in the case shall be deemed not to have occurred, sealing of the 5303
following records of a conviction on which the board has based an 5304
action under this section shall have no effect on the board's 5305
action or any sanction imposed by the board under this section: 5306
records of any conviction, guilty plea, judicial finding of guilt 5307
resulting from a plea of no contest, or a judicial finding of 5308
eligibility for a pretrial diversion program or intervention in 5309
lieu of conviction. 5310

The board shall not be required to seal, destroy, redact, or 5311
otherwise modify its records to reflect the court's sealing of 5312
conviction records. 5313

(F) The board may investigate an individual's criminal 5314
background in performing its duties under this section. As part of 5315
such investigation, the board may order the individual to submit, 5316
at the individual's expense, a request to the bureau of criminal 5317
identification and investigation for a criminal records check and 5318
check of federal bureau of investigation records in accordance 5319
with the procedure described in section 4723.091 of the Revised 5320
Code. 5321

(G) During the course of an investigation conducted under 5322
this section, the board may compel any registered nurse, licensed 5323
practical nurse, or dialysis technician or applicant under this 5324
chapter to submit to a mental or physical examination, or both, as 5325

required by the board and at the expense of the individual, if the 5326
board finds reason to believe that the individual under 5327
investigation may have a physical or mental impairment that may 5328
affect the individual's ability to provide safe nursing care. 5329
Failure of any individual to submit to a mental or physical 5330
examination when directed constitutes an admission of the 5331
allegations, unless the failure is due to circumstances beyond the 5332
individual's control, and a default and final order may be entered 5333
without the taking of testimony or presentation of evidence. 5334

If the board finds that an individual is impaired, the board 5335
shall require the individual to submit to care, counseling, or 5336
treatment approved or designated by the board, as a condition for 5337
initial, continued, reinstated, or renewed authority to practice. 5338
The individual shall be afforded an opportunity to demonstrate to 5339
the board that the individual can begin or resume the individual's 5340
occupation in compliance with acceptable and prevailing standards 5341
of care under the provisions of the individual's authority to 5342
practice. 5343

For purposes of this division, any registered nurse, licensed 5344
practical nurse, or dialysis technician or applicant under this 5345
chapter shall be deemed to have given consent to submit to a 5346
mental or physical examination when directed to do so in writing 5347
by the board, and to have waived all objections to the 5348
admissibility of testimony or examination reports that constitute 5349
a privileged communication. 5350

(H) The board shall investigate evidence that appears to show 5351
that any person has violated any provision of this chapter or any 5352
rule of the board. Any person may report to the board any 5353
information the person may have that appears to show a violation 5354
of any provision of this chapter or rule of the board. In the 5355
absence of bad faith, any person who reports such information or 5356
who testifies before the board in any adjudication conducted under 5357

Chapter 119. of the Revised Code shall not be liable for civil 5358
damages as a result of the report or testimony. 5359

(I) All of the following apply under this chapter with 5360
respect to the confidentiality of information: 5361

(1) Information received by the board pursuant to a complaint 5362
or an investigation is confidential and not subject to discovery 5363
in any civil action, except that the board may disclose 5364
information to law enforcement officers and government entities 5365
~~investigating~~ for purposes of an investigation of either a 5366
licensed health care professional, including a registered nurse, 5367
licensed practical nurse, or dialysis technician, or a person who 5368
may have engaged in the unauthorized practice of nursing or 5369
dialysis care. No law enforcement officer or government entity 5370
with knowledge of any information disclosed by the board pursuant 5371
to this division shall divulge the information to any other person 5372
or government entity except for the purpose of a government 5373
investigation, a prosecution, or an adjudication by a court or 5374
government entity. 5375

(2) If an investigation requires a review of patient records, 5376
the investigation and proceeding shall be conducted in such a 5377
manner as to protect patient confidentiality. 5378

(3) All adjudications and investigations of the board shall 5379
be considered civil actions for the purposes of section 2305.252 5380
of the Revised Code. 5381

(4) Any board activity that involves continued monitoring of 5382
an individual as part of or following any disciplinary action 5383
taken under this section shall be conducted in a manner that 5384
maintains the individual's confidentiality. Information received 5385
or maintained by the board with respect to the board's monitoring 5386
activities is ~~confidential and~~ not subject to discovery in any 5387
civil action and is confidential, except that the board may 5388

disclose information to law enforcement officers and government 5389
entities for purposes of an investigation of a licensee or 5390
certificate holder. 5391

(J) Any action taken by the board under this section 5392
resulting in a suspension from practice shall be accompanied by a 5393
written statement of the conditions under which the person may be 5394
reinstated to practice. 5395

(K) When the board refuses to grant a license or certificate 5396
to an applicant, revokes a license or certificate, or refuses to 5397
reinstate a license or certificate, the board may specify that its 5398
action is permanent. An individual subject to permanent action 5399
taken by the board is forever ineligible to hold a license or 5400
certificate of the type that was refused or revoked and the board 5401
shall not accept from the individual an application for 5402
reinstatement of the license or certificate or for a new license 5403
or certificate. 5404

(L) No unilateral surrender of a nursing license, certificate 5405
of authority, or dialysis technician certificate issued under this 5406
chapter shall be effective unless accepted by majority vote of the 5407
board. No application for a nursing license, certificate of 5408
authority, or dialysis technician certificate issued under this 5409
chapter may be withdrawn without a majority vote of the board. The 5410
board's jurisdiction to take disciplinary action under this 5411
section is not removed or limited when an individual has a license 5412
or certificate classified as inactive or fails to renew a license 5413
or certificate. 5414

(M) Sanctions shall not be imposed under division (B)(24) of 5415
this section against any licensee who waives deductibles and 5416
copayments as follows: 5417

(1) In compliance with the health benefit plan that expressly 5418
allows such a practice. Waiver of the deductibles or copayments 5419

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 5452
to practice as a dialysis technician shall submit a request to the 5453
bureau of criminal identification and investigation for the bureau 5454
to conduct a criminal records check of the applicant and to send 5455
the results to the board, in accordance with section 4723.75 of 5456
the Revised Code. 5457~~

~~The board shall refuse to issue a certificate to practice as 5458
a dialysis technician under section 4723.75 of the Revised Code to 5459
a person who entered a dialysis training program on or after June 5460
1, 2003, and whose criminal records check performed in accordance 5461
with division (C) of that section indicates that the person has 5462
pleaded guilty to, been convicted of, or has had a judicial 5463
finding of guilt for violating section 2903.01, 2903.02, 2903.03, 5464
2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 5465
2911.11 of the Revised Code or a substantially similar law of 5466
another state, the United States, or another country. 5467~~

Sec. 4723.32. This chapter does not prohibit any of the 5468
following: 5469

(A) The practice of nursing by a student currently enrolled 5470
in and actively pursuing completion of a prelicensure nursing 5471
education program, if all of the following are the case: 5472

(1) The student is participating in a program located in this 5473
state and approved by the board of nursing or participating in 5474
this state in a component of a program located in another 5475
jurisdiction and approved by a board that is a member of the 5476
national council of state boards of nursing; 5477

(2) The student's practice is under the auspices of the 5478
program; 5479

(3) The student acts under the supervision of a registered 5480
nurse serving for the program as a faculty member or teaching 5481

assistant.	5482
(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;	5483 5484 5485 5486
(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;	5487 5488 5489 5490
(D) The provision of nursing services to family members or in emergency situations;	5491 5492
(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;	5493 5494 5495
(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:	5496 5497 5498 5499 5500 5501
(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;	5502 5503 5504 5505 5506 5507 5508
(2) The student's practice is under the auspices of the program;	5509 5510
(3) The student acts under the supervision of a registered	5511

nurse serving for the program as a faculty member, teaching 5512
assistant, or preceptor. 5513

(G) The activities of an individual who currently holds a 5514
license to practice nursing in another jurisdiction, if the 5515
individual's license has not been revoked, the individual is not 5516
currently under suspension or on probation, the individual does 5517
not represent the individual as being licensed under this chapter, 5518
and one of the following is the case: 5519

(1) The individual is engaging in the practice of nursing by 5520
discharging official duties while employed by or under contract 5521
with the United States government or any agency thereof; 5522

(2) The individual is engaging in the practice of nursing as 5523
an employee of an individual, agency, or corporation located in 5524
the other jurisdiction in a position with employment 5525
responsibilities that include transporting patients into, out of, 5526
or through this state, as long as each trip in this state does not 5527
exceed seventy-two hours; 5528

(3) The individual is consulting with an individual licensed 5529
in this state to practice any health-related profession; 5530

(4) The individual is engaging in activities associated with 5531
teaching in this state as a guest lecturer at or for a nursing 5532
education program, continuing nursing education program, or 5533
in-service presentation; 5534

(5) The individual is conducting evaluations of nursing care 5535
that are undertaken on behalf of an accrediting organization, 5536
including the national league for nursing accrediting committee, 5537
the joint commission on accreditation of healthcare organizations, 5538
or any other nationally recognized accrediting organization; 5539

(6) The individual is providing nursing care to an individual 5540
who is in this state on a temporary basis, not to exceed six 5541
months in any one calendar year, if the nurse is directly employed 5542

by or under contract with the individual or a guardian or other 5543
person acting on the individual's behalf; 5544

(7) The individual is providing nursing care during any 5545
disaster, natural or otherwise, that has been officially declared 5546
to be a disaster by a public announcement issued by an appropriate 5547
federal, state, county, or municipal official. 5548

(H) The administration of medication by an individual who 5549
holds a valid medication aide certificate issued under this 5550
chapter, if the medication is administered to a resident of a 5551
nursing home or residential care facility authorized by section 5552
~~4723.63~~ or 4723.64 of the Revised Code to use a certified 5553
medication aide and the medication is administered in accordance 5554
with section 4723.67 of the Revised Code. 5555

Sec. 4723.34. (A) ~~Reports to the board of nursing shall be~~ 5556
~~made as follows:~~ 5557

~~(1) Every employer of~~ A person or governmental entity that 5558
employs, or contracts directly or through another person or 5559
governmental entity for the provision of services by, registered 5560
nurses, licensed practical nurses, ~~or~~ dialysis technicians, 5561
medication aides, or certified community health workers and that 5562
knows or has reason to believe that a current or former employee 5563
or person providing services under a contract who holds a license 5564
or certificate issued under this chapter engaged in conduct that 5565
would be grounds for disciplinary action by the board of nursing 5566
under this chapter or rules adopted under it shall report to the 5567
board of nursing the name of ~~any~~ such current or former employee 5568
~~who holds a nursing license or dialysis technician certificate~~ 5569
~~issued under this chapter who has engaged in conduct that would be~~ 5570
~~grounds for disciplinary action by the board under section 4723.28~~ 5571
~~of the Revised Code~~ or person providing services under a contract. 5572
The report shall be made on the person's or governmental entity's 5573

behalf by an individual licensed by the board who the person or 5574
governmental entity has designated to make such reports. 5575

~~Every employer of certified community health workers shall~~ 5576
~~report to the board the name of any current or former employee who~~ 5577
~~holds a community health worker certificate issued under this~~ 5578
~~chapter who has engaged in conduct that would be grounds for~~ 5579
~~disciplinary action by the board under section 4723.86 of the~~ 5580
~~Revised Code.~~ 5581

~~Every employer of medication aides shall report to the board~~ 5582
~~the name of any current or former employee who holds a medication~~ 5583
~~aide certificate issued under this chapter who has engaged in~~ 5584
~~conduct that would be grounds for disciplinary action by the board~~ 5585
~~under section 4723.652 of the Revised Code.~~ 5586

~~(2) Nursing associations shall report to the board the name~~ 5587
~~of any registered nurse or licensed practical nurse and dialysis~~ 5588
~~technician associations shall report to the board the name of any~~ 5589
~~dialysis technician who has been investigated and found to~~ 5590
~~constitute a danger to the public health, safety, and welfare~~ 5591
~~because of conduct that would be grounds for disciplinary action~~ 5592
~~by the board under section 4723.28 of the Revised Code, except~~ 5593
~~that an association is not required to report the individual's~~ 5594
~~name if the individual is maintaining satisfactory participation~~ 5595
~~in a peer support program approved by the board under rules~~ 5596
~~adopted under section 4723.07 of the Revised Code.~~ 5597

~~Community health worker associations shall report to the~~ 5598
~~board the name of any certified community health worker who has~~ 5599
~~been investigated and found to constitute a danger to the public~~ 5600
~~health, safety, and welfare because of conduct that would be~~ 5601
~~grounds for disciplinary action by the board under section 4723.86~~ 5602
~~of the Revised Code, except that an association is not required to~~ 5603
~~report the individual's name if the individual is maintaining~~ 5604
~~satisfactory participation in a peer support program approved by~~ 5605

~~the board under rules adopted under section 4723.07 of the Revised Code.~~ 5606
5607

~~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.~~ 5608
5609
5610
5611
5612
5613
5614
5615
5616

~~(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.~~ 5617
5618
5619
5620
5621
5622
5623
5624
5625
5626
5627
5628
5629
5630
5631
5632
5633
5634
5635

~~Each notification required by this division from a prosecutor shall be made on forms prescribed and provided by the board. The~~ 5636
5637

report shall include the name and address of the license or 5638
certificate holder, the charge, and the certified court documents 5639
recording the action. 5640

(B) If any person or governmental entity fails to provide a 5641
report required by this section, the board may seek an order from 5642
a court of competent jurisdiction compelling submission of the 5643
report. 5644

Sec. 4723.35. (A) As used in this section, "chemical 5645
dependency" means either of the following: 5646

(1) The chronic and habitual use of alcoholic beverages to 5647
the extent that the user no longer can control the use of alcohol 5648
or endangers the user's health, safety, or welfare or that of 5649
others; 5650

(2) The use of a controlled substance as defined in section 5651
3719.01 of the Revised Code, a harmful intoxicant as defined in 5652
section 2925.01 of the Revised Code, or a dangerous drug as 5653
defined in section 4729.01 of the Revised Code, to the extent that 5654
the user becomes physically or psychologically dependent on the 5655
substance, intoxicant, or drug or endangers the user's health, 5656
safety, or welfare or that of others. 5657

(B) The board of nursing may abstain from taking disciplinary 5658
action under section 4723.28 or 4723.86 of the Revised Code 5659
against an individual with a chemical dependency if it finds that 5660
the individual can be treated effectively and there is no 5661
impairment of the individual's ability to practice according to 5662
acceptable and prevailing standards of safe care. The board shall 5663
establish a chemical dependency monitoring program to monitor the 5664
registered nurses, licensed practical nurses, dialysis 5665
technicians, and certified community health workers against whom 5666
the board has abstained from taking action. The board shall 5667
develop the program, select the program's name, and designate a 5668

coordinator to administer the program. 5669

(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. 5670
5671
5672
5673
5674

(D) The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the following: 5675
5676

(1) Eligibility requirements for admission to and continued participation in the monitoring program; 5677
5678

(2) Terms and conditions that must be met to participate in and successfully complete the program; 5679
5680

(3) Procedures for keeping confidential records regarding participants; 5681
5682

(4) Any other requirements or procedures necessary to establish and administer the program. 5683
5684

~~(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. 5685
5686
5687
5688
5689
5690
5691

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 5692
5693
5694
5695
5696
5697
5698

or certificate as a condition of continued participation in the 5699
program. The coordinator may require the surrender only on the 5700
approval of the board's supervising member for disciplinary 5701
matters. 5702

The surrender of a license or certificate on admission to the 5703
monitoring program or while participating in the program does not 5704
constitute an action by the board under section 4723.28 or 4723.86 5705
of the Revised Code. The participant may rescind the surrender at 5706
any time and the board may proceed by taking action under section 5707
4723.28 or 4723.86 of the Revised Code. 5708

(2) If the program coordinator determines that a participant 5709
is significantly out of compliance with the terms and conditions 5710
for participation, the coordinator shall notify the board's 5711
supervising member for disciplinary matters and the supervising 5712
member shall determine whether to temporarily suspend the 5713
participant's license or certificate. The ~~program coordinator~~ 5714
board shall notify the participant of the suspension by certified 5715
mail sent to the participant's last known address and shall refer 5716
the matter to the board for formal action under section 4723.28 or 5717
4723.86 of the Revised Code. 5718

~~(E)~~(F) All of the following apply with respect to the 5719
receipt, release, and maintenance of records and information by 5720
the monitoring program: 5721

(1) The program coordinator shall maintain all program 5722
records in the board's office, and for each participant, shall 5723
retain the records for a period of ~~five~~ two years following the 5724
participant's date of successful completion of the program. 5725

(2) When applying to participate in the monitoring program, 5726
the applicant shall sign a waiver permitting the ~~program~~ 5727
~~coordinator~~ board to receive and release information necessary ~~for~~ 5728
~~the coordinator~~ to determine whether the individual is eligible 5729

for admission. After being admitted, the participant shall sign a 5730
waiver permitting the ~~program coordinator~~ board to receive and 5731
release information necessary to determine whether the individual 5732
is eligible for continued participation in the program. 5733
Information that may be necessary for the ~~program coordinator~~ 5734
board's supervising member for disciplinary matters to determine 5735
eligibility for admission or continued participation in the 5736
monitoring program includes, but is not limited to, information 5737
provided to and by employers, probation officers, law enforcement 5738
agencies, peer assistance programs, health professionals, and 5739
treatment providers. No entity with knowledge that the information 5740
has been provided to the monitoring program shall divulge that 5741
knowledge to any other person. 5742

(3) Except as provided in division ~~(E)~~(F)(4) of this section, 5743
all records pertaining to an individual's application for or 5744
participation in the monitoring program, including medical 5745
records, treatment records, and mental health records, shall be 5746
confidential. The records are not public records for the purposes 5747
of section 149.43 of the Revised Code and are not subject to 5748
discovery by subpoena or admissible as evidence in any judicial 5749
proceeding. 5750

(4) The ~~program coordinator~~ board may disclose information 5751
regarding a participant's progress in the program to any person or 5752
government entity that the participant authorizes in writing to be 5753
given the information. In disclosing information under this 5754
division, the ~~coordinator~~ board shall not include any information 5755
that is protected under section 3793.13 of the Revised Code or any 5756
federal statute or regulation that provides for the 5757
confidentiality of medical, mental health, or substance abuse 5758
records. 5759

~~(F)~~(G) In the absence of fraud or bad faith, the ~~program~~ 5760
~~coordinator, the board of nursing, and the board's employees and~~ 5761

~~representatives as a whole, its individual members, and its~~ 5762
~~employees and representatives~~ are not liable for damages in any 5763
civil action as a result of disclosing information in accordance 5764
with division ~~(E)~~(F)(4) of this section. In the absence of fraud 5765
or bad faith, any person reporting to the program with regard to 5766
an individual's chemical dependence, or the progress or lack of 5767
progress of that individual with regard to treatment, is not 5768
liable for damages in any civil action as a result of the report. 5769

Sec. 4723.41. (A) Each person who desires to practice nursing 5770
as a certified nurse-midwife and has not been authorized to 5771
practice midwifery prior to December 1, 1967, and each person who 5772
desires to practice nursing as a certified registered nurse 5773
anesthetist, clinical nurse specialist, or certified nurse 5774
practitioner shall file with the board of nursing a written 5775
application for authorization to practice nursing in the desired 5776
specialty, under oath, on a form prescribed by the board. 5777

Except as provided in ~~divisions~~ division (B), ~~(C), and (D)~~ of 5778
this section, at the time of making application, the applicant 5779
shall meet all of the following requirements: 5780

(1) Be a registered nurse; 5781

(2) Submit documentation satisfactory to the board that the 5782
applicant has earned a graduate degree with a major in a nursing 5783
specialty or in a related field that qualifies the applicant to 5784
sit for the certification examination of a national certifying 5785
organization ~~listed in division (A)(3) of this section or~~ approved 5786
by the board under section 4723.46 of the Revised Code; 5787

(3) Submit documentation satisfactory to the board of having 5788
passed the certification examination of ~~one of the following:~~ 5789

~~(a) If the applicant is applying to practice nursing as a~~ 5790
~~certified nurse-midwife, the American college of nurse-midwives or~~ 5791

~~another national certifying organization approved by the board 5792
under section 4723.46 of the Revised Code to examine and certify 5793
nurse-midwives; 5794~~

~~(b) If the applicant is applying to practice nursing as a 5795
certified registered nurse anesthetist, the national council on 5796
certification of nurse anesthetists of the American association of 5797
nurse anesthetists, the national council on recertification of 5798
nurse anesthetists of the American association of nurse 5799
anesthetists, or another national certifying organization approved 5800
by the board under section 4723.46 of the Revised Code to examine 5801
and certify registered nurse anesthetists; 5802~~

~~(c) If the applicant is applying to practice nursing as a 5803
clinical nurse specialist, the American nurses credentialing 5804
center or another national certifying organization approved by the 5805
board under section 4723.46 of the Revised Code to examine and 5806
certify clinical nurse specialists; 5807~~

~~(d) If the applicant is applying to practice nursing as a 5808
certified nurse practitioner, the American nurses credentialing 5809
center, the national certification corporation, the national board 5810
of pediatric nurse practitioners and associates, or another a 5811
national certifying organization approved by the board under 5812
section 4723.46 of the Revised Code to examine and certify, as 5813
applicable, nurse-midwives, registered nurse anesthetists, 5814
clinical nurse specialists, or nurse practitioners-; 5815~~

(4) Submit an affidavit with the application that states all 5816
of the following: 5817

(a) That the applicant is the person named in the documents 5818
submitted under divisions (A)(2) and (3) of this section and is 5819
the lawful possessor thereof; 5820

(b) The applicant's age, residence, the school at which the 5821
applicant obtained education in the applicant's nursing specialty, 5822

and any other facts that the board requires; 5823

(c) If the applicant is already engaged in the practice of 5824
nursing as a certified registered nurse anesthetist, clinical 5825
nurse specialist, certified nurse-midwife, or certified nurse 5826
practitioner, the period during which and the place where the 5827
applicant is engaged; 5828

(d) If the applicant is already engaged in the practice of 5829
nursing as a clinical nurse specialist, certified nurse-midwife, 5830
or certified nurse practitioner, the names and business addresses 5831
of the applicant's current collaborating physicians and 5832
podiatrists. ~~If the applicant is not yet engaged in the practice 5833
of nursing as a clinical nurse specialist, certified 5834
nurse-midwife, or certified nurse practitioner, the applicant 5835
shall submit the names and business addresses of the applicant's 5836
collaborating physicians or podiatrists not later than thirty days 5837
after first engaging in the practice. The applicant shall give 5838
written notice to the board of any additions or deletions to the 5839
affidavit of collaborating physicians or podiatrists not later 5840
than thirty days after the change takes effect. 5841~~

~~(B) On or before December 31, 2000, the board shall issue to 5842
an applicant a certificate of authority to practice nursing as a 5843
certified registered nurse anesthetist, certified nurse-midwife, 5844
or certified nurse practitioner if the applicant complies with all 5845
requirements of this section, other than the requirement that the 5846
applicant has earned a graduate degree with a major in a nursing 5847
specialty or in a related field that qualifies the applicant to 5848
sit for the certification examination of a national certifying 5849
organization listed in division (A)(3) of this section or approved 5850
by the board under section 4723.46 of the Revised Code. 5851~~

~~(C) On or before December 31, 2000, the board shall issue to 5852
an applicant a certificate of authority to practice nursing as a 5853
clinical nurse specialist if one of the following applies: 5854~~

~~(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 5887
the application fee required by section 4723.08 of the Revised 5888
Code. The application shall include evidence that the applicant 5889
meets the requirements of division (B)(2) of this section, holds a 5890
license or certificate to practice nursing as a certified 5891
registered nurse anesthetist, clinical nurse specialist, certified 5892
nurse-midwife, or certified nurse practitioner in good standing in 5893
another jurisdiction granted after meeting requirements approved 5894
by the entity of that jurisdiction that licenses nurses, and other 5895
information required by rules of the board of nursing. 5896

~~If~~ With respect to the educational requirements and national 5897
certification requirements that an applicant under division (B)(2) 5898
of this section must meet, both of the following apply: 5899

(a) If the applicant is a certified registered nurse 5900
anesthetist, certified nurse-midwife, or certified nurse 5901
practitioner who, on or before December 31, 2000, ~~met the~~ 5902
~~requirements of this section to practice as such and has~~ 5903
~~maintained~~ obtained certification in the applicant's nursing 5904
specialty with a national certifying organization listed in 5905
division (A)(3) of section 4723.41 of the Revised Code as that 5906
division existed prior to the effective date of this amendment or 5907
that was at that time approved by the board under section 4723.46 5908
of the Revised Code, ~~division (B) of this section shall apply~~ the 5909
applicant must have maintained the certification. The applicant is 5910
not required to have earned a graduate degree with a major in a 5911
nursing specialty or in a related field that qualifies the 5912
applicant to sit for the certification examination. 5913

(b) If the applicant is a clinical nurse specialist ~~who, on~~ 5914
~~or before December 31, 2000, met the requirements of this section~~ 5915
~~to practice as such, division (C) of this section shall apply~~ one 5916
of the following must apply to the applicant: 5917

(i) On or before December 31, 2000, the applicant obtained a 5918

graduate degree with a major in a clinical area of nursing from an 5919
educational institution accredited by a national or regional 5920
accrediting organization. The applicant is not required to have 5921
passed a certification examination. 5922

(ii) On or before December 31, 2000, the applicant obtained a 5923
graduate degree in nursing or a related field and was certified as 5924
a clinical nurse specialist by the American nurses credentialing 5925
center or another national certifying organization that was at 5926
that time approved by the board under section 4723.46 of the 5927
Revised Code. 5928

Sec. 4723.42. (A) If the applicant for authorization to 5929
practice nursing as a certified registered nurse anesthetist, 5930
clinical nurse specialist, certified nurse-midwife, or certified 5931
nurse practitioner has met all the requirements of section 4723.41 5932
of the Revised Code and has paid the fee required by section 5933
4723.08 of the Revised Code, the board of nursing shall issue its 5934
certificate of authority to practice nursing as a certified 5935
registered nurse anesthetist, clinical nurse specialist, certified 5936
nurse-midwife, or certified nurse practitioner, which shall 5937
designate the nursing specialty the nurse is authorized to 5938
practice. The certificate entitles its holder to practice nursing 5939
in the specialty designated on the certificate. 5940

The board shall issue or deny its certificate not later than 5941
sixty days after receiving all of the documents required by 5942
section 4723.41 of the Revised Code. 5943

If an applicant is under investigation for a violation of 5944
this chapter, the board shall conclude the investigation not later 5945
than ninety days after receipt of all required documents, unless 5946
this ninety-day period is extended by written consent of the 5947
applicant, or unless the board determines that a substantial 5948
question of such a violation exists and the board has notified the 5949

applicant in writing of the reasons for the continuation of the 5950
investigation. If the board determines that the applicant has not 5951
violated this chapter, it shall issue a certificate not later than 5952
forty-five days after making that determination. 5953

(B) Authorization to practice nursing as a certified 5954
registered nurse anesthetist, clinical nurse specialist, certified 5955
nurse-midwife, or certified nurse practitioner shall be renewed 5956
biennially according to rules and a schedule adopted by the board. 5957
In providing renewal applications to certificate holders, the 5958
board shall follow the procedures it follows under section 4723.24 5959
of the Revised Code in providing renewal applications to license 5960
holders. Failure of the certificate holder to receive an 5961
application for renewal from the board does not excuse the holder 5962
from the requirements of section 4723.44 of the Revised Code. 5963

Not later than the date specified by the board, the holder 5964
shall complete the renewal form and return it to the board with 5965
all of the following: 5966

(1) The renewal fee required by section 4723.08 of the 5967
Revised Code; 5968

(2) ~~Except as provided in division (C) of this section,~~ 5969
~~documentation~~ Documentation satisfactory to the board that the 5970
holder has maintained certification in the nursing specialty with 5971
a national certifying organization ~~listed in division (A)(3) of~~ 5972
~~section 4723.41 of the Revised Code or~~ approved by the board under 5973
section 4723.46 of the Revised Code; 5974

(3) A list of the names and business addresses of the 5975
holder's current collaborating physicians and podiatrists, if the 5976
holder is a clinical nurse specialist, certified nurse-midwife, or 5977
certified nurse practitioner; 5978

(4) If the holder's certificate was issued under division (C) 5979
of section 4723.41 of the Revised Code, as that division existed 5980

at any time before the effective date of this amendment, 5981
documentation satisfactory to the board that the holder has 5982
completed continuing education for a clinical nurse specialist as 5983
required by rule of the board; 5984

~~(5) If the holder's certificate was issued under division (D) 5985
of section 4723.41 of the Revised Code, documentation satisfactory 5986
to the board that the holder has continued employment by a public 5987
agency or a private, nonprofit entity that receives funding under 5988
Title X of the "Public Health Service Act," 42 U.S.C. 300 and 5989
300a-1 (1991).~~ 5990

On receipt of the renewal application, fees, and documents, 5991
the board shall verify that the applicant holds a current license 5992
to practice nursing as a registered nurse in this state, and, if 5993
it so verifies, shall renew the certificate. If an applicant 5994
submits the completed renewal application after the date specified 5995
in the board's schedule, but before the expiration of the 5996
certificate, the board shall grant a renewal when the late renewal 5997
fee required by section 4723.08 of the Revised Code is paid. 5998

An applicant for reinstatement of an expired certificate 5999
shall submit the reinstatement fee, renewal fee, and late renewal 6000
fee required by section 4723.08 of the Revised Code. Any holder of 6001
a certificate who desires inactive status shall give the board 6002
written notice to that effect. 6003

~~(C) The board shall renew a certificate of authority to 6004
practice nursing as a clinical nurse specialist issued pursuant to 6005
division (C) of section 4723.41 of the Revised Code, if the 6006
certificate holder complies with all renewal requirements of this 6007
section other than the requirement of having maintained 6008
certification in the holder's nursing specialty.~~ 6009

Sec. 4723.43. A certified registered nurse anesthetist, 6010
clinical nurse specialist, certified nurse-midwife, or certified 6011

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 6043
support functions, consistent with the nurse's education and 6044
certification, and in accordance with rules adopted by the board. 6045
A certified registered nurse anesthetist is not required to obtain 6046
a certificate to prescribe in order to provide the anesthesia care 6047
described in this division. 6048

The physician, podiatrist, or dentist supervising a certified 6049
registered nurse anesthetist must be actively engaged in practice 6050
in this state. When a certified registered nurse anesthetist is 6051
supervised by a podiatrist, the nurse's scope of practice is 6052
limited to the anesthesia procedures that the podiatrist has the 6053
authority under section 4731.51 of the Revised Code to perform. A 6054
certified registered nurse anesthetist may not administer general 6055
anesthesia under the supervision of a podiatrist in a podiatrist's 6056
office. When a certified registered nurse anesthetist is 6057
supervised by a dentist, the nurse's scope of practice is limited 6058
to the anesthesia procedures that the dentist has the authority 6059
under Chapter 4715. of the Revised Code to perform. 6060

(C) A nurse authorized to practice as a certified nurse 6061
practitioner, in collaboration with one or more physicians or 6062
podiatrists, may provide preventive and primary care services, 6063
provide services for acute illnesses, and evaluate and promote 6064
patient wellness within the nurse's nursing specialty, consistent 6065
with the nurse's education and certification, and in accordance 6066
with rules adopted by the board. A certified nurse practitioner 6067
who holds a certificate to prescribe issued under section 4723.48 6068
of the Revised Code may, in collaboration with one or more 6069
physicians or podiatrists, prescribe drugs and therapeutic devices 6070
in accordance with section 4723.481 of the Revised Code. 6071

When a certified nurse practitioner is collaborating with a 6072
podiatrist, the nurse's scope of practice is limited to the 6073
procedures that the podiatrist has the authority under section 6074

4731.51 of the Revised Code to perform. 6075

(D) A nurse authorized to practice as a clinical nurse 6076
specialist, in collaboration with one or more physicians or 6077
podiatrists, may provide and manage the care of individuals and 6078
groups with complex health problems and provide health care 6079
services that promote, improve, and manage health care within the 6080
nurse's nursing specialty, consistent with the nurse's education 6081
and in accordance with rules adopted by the board. A clinical 6082
nurse specialist who holds a certificate to prescribe issued under 6083
section 4723.48 of the Revised Code may, in collaboration with one 6084
or more physicians or podiatrists, prescribe drugs and therapeutic 6085
devices in accordance with section 4723.481 of the Revised Code. 6086

When a clinical nurse specialist is collaborating with a 6087
podiatrist, the nurse's scope of practice is limited to the 6088
procedures that the podiatrist has the authority under section 6089
4731.51 of the Revised Code to perform. 6090

Sec. 4723.431. (A) Except as provided in division (D)(1) of 6091
this section, a clinical nurse specialist, certified 6092
nurse-midwife, or certified nurse practitioner may practice only 6093
in accordance with a standard care arrangement entered into with 6094
each physician or podiatrist with whom the nurse collaborates. A 6095
copy of the standard care arrangement shall be retained on file at 6096
each site where the nurse practices. Prior approval of the 6097
standard care arrangement by the board of nursing is not required, 6098
but the board may periodically review it for compliance with this 6099
section. 6100

A clinical nurse specialist, certified nurse-midwife, or 6101
certified nurse practitioner may enter into a standard care 6102
arrangement with one or more collaborating physicians or 6103
podiatrists. Each Not later than thirty days after first engaging 6104
in the practice of nursing as a clinical nurse specialist, 6105

certified nurse-midwife, or certified nurse practitioner, the 6106
nurse shall submit to the board the name and business address of 6107
each collaborating physician or podiatrist. Thereafter, the nurse 6108
shall give to the board written notice of any additions or 6109
deletions to the nurse's collaborating physicians or podiatrists 6110
not later than thirty days after the change takes effect. 6111

Each collaborating physician or podiatrist must be actively 6112
engaged in direct clinical practice in this state and practicing 6113
in a specialty that is the same as or similar to the nurse's 6114
nursing specialty. If a collaborating physician or podiatrist 6115
enters into standard care arrangements with more than three nurses 6116
who hold certificates to prescribe issued under section 4723.48 of 6117
the Revised Code, the physician or podiatrist shall not 6118
collaborate at the same time with more than three of the nurses in 6119
the prescribing component of their practices. 6120

(B) A standard care arrangement shall be in writing and, 6121
except as provided in division (D)(2) of this section, shall 6122
contain all of the following: 6123

(1) Criteria for referral of a patient by the clinical nurse 6124
specialist, certified nurse-midwife, or certified nurse 6125
practitioner to a collaborating physician or podiatrist; 6126

(2) A process for the clinical nurse specialist, certified 6127
nurse-midwife, or certified nurse practitioner to obtain a 6128
consultation with a collaborating physician or podiatrist; 6129

(3) A plan for coverage in instances of emergency or planned 6130
absences of either the clinical nurse specialist, certified 6131
nurse-midwife, or certified nurse practitioner or a collaborating 6132
physician or podiatrist that provides the means whereby a 6133
physician or podiatrist is available for emergency care; 6134

(4) The process for resolution of disagreements regarding 6135
matters of patient management between the clinical nurse 6136

specialist, certified nurse-midwife, or certified nurse 6137
practitioner and a collaborating physician or podiatrist; 6138

(5) A procedure for a regular review of the referrals by the 6139
clinical nurse specialist, certified nurse-midwife, or certified 6140
nurse practitioner to other health care professionals and the care 6141
outcomes for a random sample of all patients seen by the nurse; 6142

(6) If the clinical nurse specialist or certified nurse 6143
practitioner regularly provides services to infants, a policy for 6144
care of infants up to age one and recommendations for 6145
collaborating physician visits for children from birth to age 6146
three; 6147

(7) Any other criteria required by rule of the board adopted 6148
pursuant to section 4723.07 or 4723.50 of the Revised Code. 6149

(C) A standard care arrangement entered into pursuant to this 6150
section may permit a clinical nurse specialist, certified 6151
nurse-midwife, or certified nurse practitioner to supervise 6152
services provided by a home health agency as defined in section 6153
3701.881 of the Revised Code. 6154

(D)(1) A clinical nurse specialist who does not hold a 6155
certificate to prescribe and whose nursing specialty is mental 6156
health or psychiatric mental health, as determined by the board, 6157
is not required to enter into a standard care arrangement, but 6158
shall practice in collaboration with one or more physicians. 6159

(2) If a clinical nurse specialist practicing in either of 6160
the specialties specified in division (D)(1) of this section holds 6161
a certificate to prescribe, the nurse shall enter into a standard 6162
care arrangement with one or more physicians. The standard care 6163
arrangement must meet the requirements of division (B) of this 6164
section, but only to the extent necessary to address the 6165
prescribing component of the nurse's practice. 6166

(E) Nothing in this section prohibits a hospital from hiring 6167

a clinical nurse specialist, certified nurse-midwife, or certified 6168
nurse practitioner as an employee and negotiating standard care 6169
arrangements on behalf of the employee as necessary to meet the 6170
requirements of this section. A standard care arrangement between 6171
the hospital's employee and the employee's collaborating physician 6172
is subject to approval by the medical staff and governing body of 6173
the hospital prior to implementation of the arrangement at the 6174
hospital. 6175

Sec. 4723.44. (A) No person shall do any of the following 6176
unless the person holds a current, valid certificate of authority 6177
to practice nursing as a certified registered nurse anesthetist, 6178
clinical nurse specialist, certified nurse-midwife, or certified 6179
nurse practitioner issued by the board of nursing under this 6180
chapter: 6181

(1) Engage in the practice of nursing as a certified 6182
registered nurse anesthetist, clinical nurse specialist, certified 6183
nurse-midwife, or certified nurse practitioner for a fee, salary, 6184
or other consideration, or as a volunteer; 6185

(2) Represent the person as being a certified registered 6186
nurse anesthetist, clinical nurse specialist, certified 6187
nurse-midwife, or certified nurse practitioner; 6188

(3) Use any title or initials implying that the person is a 6189
certified registered nurse anesthetist, clinical nurse specialist, 6190
certified nurse-midwife, or certified nurse practitioner; 6191

(4) Represent the person as being an advanced practice 6192
registered nurse; 6193

(5) Use any title or initials implying that the person is an 6194
advanced practice registered nurse. 6195

(B) No person who is not certified by the national council on 6196
certification of nurse anesthetists of the American association of 6197

nurse anesthetists, the national council on recertification of 6198
nurse anesthetists of the American association of nurse 6199
anesthetists, or another national certifying organization approved 6200
by the board under section 4723.46 of the Revised Code shall use 6201
the title "certified registered nurse anesthetist" or the initials 6202
"C.R.N.A.," or any other title or initial implying that the person 6203
has been certified by the council or organization. 6204

(C) No certified registered nurse anesthetist, clinical nurse 6205
specialist, certified nurse-midwife, or certified nurse 6206
practitioner shall do any of the following: 6207

(1) Engage, for a fee, salary, or other consideration, or as 6208
a volunteer, in the practice of a nursing specialty other than the 6209
specialty designated on the nurse's current, valid certificate of 6210
authority issued by the board under this chapter; 6211

(2) Represent the person as being authorized to practice any 6212
nursing specialty other than the specialty designated on the 6213
current, valid certificate of authority; 6214

(3) Use the title "certified registered nurse anesthetist" or 6215
the initials "N.A." or "C.R.N.A.," the title "clinical nurse 6216
specialist" or the initials "C.N.S.," the title "certified 6217
nurse-midwife" or the initials "C.N.M.," the title "certified 6218
nurse practitioner" or the initials "C.N.P.," the title "advanced 6219
practice registered nurse" or the initials "A.P.R.N.," or any 6220
other title or initials implying that the nurse is authorized to 6221
practice any nursing specialty other than the specialty designated 6222
on the nurse's current, valid certificate of authority; 6223

(4) Enter into a standard care arrangement with a physician 6224
or podiatrist whose practice is not the same as or similar to the 6225
nurse's nursing specialty; 6226

(5) Prescribe drugs or therapeutic devices unless the nurse 6227
holds a current, valid certificate to prescribe issued under 6228

section 4723.48 of the Revised Code; 6229

(6) Prescribe drugs or therapeutic devices under a 6230
certificate to prescribe in a manner that does not comply with 6231
section 4723.481 of the Revised Code; 6232

(7) Prescribe any drug or device to perform or induce an 6233
abortion, or otherwise ~~Perform~~ perform or induce an abortion. 6234

(D) No person shall knowingly employ a person to engage in 6235
the practice of nursing as a certified registered nurse 6236
anesthetist, clinical nurse specialist, certified nurse-midwife, 6237
or certified nurse practitioner unless the person so employed 6238
holds a current, valid certificate of authority to engage in that 6239
nursing specialty issued by the board under this chapter. 6240

(E) A certificate certified by the executive director of the 6241
board, under the official seal of the board, to the effect that it 6242
appears from the records that no certificate of authority to 6243
practice nursing as a certified registered nurse anesthetist, 6244
clinical nurse specialist, certified nurse-midwife, or certified 6245
nurse practitioner has been issued to any person specified 6246
therein, or that a certificate, if issued, has been revoked or 6247
suspended, shall be received as prima-facie evidence of the record 6248
in any court or before any officer of the state. 6249

Sec. 4723.48. (A) A clinical nurse specialist, certified 6250
nurse-midwife, or certified nurse practitioner seeking authority 6251
to prescribe drugs and therapeutic devices shall file with the 6252
board of nursing a written application for a certificate to 6253
prescribe. The board of nursing shall issue a certificate to 6254
prescribe to each applicant who meets the requirements specified 6255
in section 4723.482 or 4723.485 of the Revised Code. 6256

Except as provided in division (B) of this section, the 6257
initial certificate to prescribe that the board issues to an 6258

applicant shall be issued as an externship certificate. Under an 6259
externship certificate, the nurse may obtain experience in 6260
prescribing drugs and therapeutic devices by participating in an 6261
externship that evaluates the nurse's competence, knowledge, and 6262
skill in pharmacokinetic principles and their clinical application 6263
to the specialty being practiced. During the externship, the nurse 6264
may prescribe drugs and therapeutic devices only when one or more 6265
physicians are providing supervision in accordance with rules 6266
adopted under section 4723.50 of the Revised Code. 6267

After completing the externship, the holder of an externship 6268
certificate may apply for a new certificate to prescribe. On 6269
receipt of the new certificate, the nurse may prescribe drugs and 6270
therapeutic devices in collaboration with one or more physicians 6271
or podiatrists. 6272

~~(B) In the case of an applicant who on May 17, 2000, was 6273
approved to prescribe drugs and therapeutic devices under section 6274
4723.56 of the Revised Code, as that section existed on that date, 6275
the initial certificate to prescribe that the board issues to the 6276
applicant under this section shall not be an externship 6277
certificate. The applicant shall be issued a certificate to 6278
prescribe that permits the recipient to prescribe drugs and 6279
therapeutic devices in collaboration with one or more physicians 6280
or podiatrists. 6281~~

~~In the case of an applicant who meets the requirements of 6282
division (C) of section 4723.482 of the Revised Code, the initial 6283
certificate to prescribe that the board issues to the applicant 6284
under this section shall not be an externship certificate. The 6285
applicant shall be issued a certificate to prescribe that permits 6286
the recipient to prescribe drugs and therapeutic devices in 6287
collaboration with one or more physicians or podiatrists. 6288~~

Sec. 4723.482. (A) Except as provided in divisions (C) and 6289

(D) of this section, an applicant shall include with the 6290
application submitted under section 4723.48 of the Revised Code 6291
all of the following: 6292

(1) ~~Subject to section 4723.483 of the Revised Code, evidence~~ 6293
Evidence of holding a current, valid certificate of authority 6294
~~issued under this chapter~~ to practice as a clinical nurse 6295
specialist, certified nurse-midwife, or certified nurse 6296
practitioner that was issued by meeting the requirements of 6297
division (A) of section 4723.41 of the Revised Code; 6298

(2) Evidence of successfully completing the course of study 6299
in advanced pharmacology and related topics in accordance with the 6300
requirements specified in division (B) of this section; 6301

(3) The fee required by section 4723.08 of the Revised Code 6302
for a certificate to prescribe; 6303

(4) Any additional information the board of nursing requires 6304
pursuant to rules adopted under section 4723.50 of the Revised 6305
Code. 6306

(B) With respect to the course of study in advanced 6307
pharmacology and related topics that must be successfully 6308
completed to obtain a certificate to prescribe, all of the 6309
following requirements apply: 6310

(1) The course of study shall be completed not longer than 6311
three years before the application for the certificate to 6312
prescribe is filed. 6313

(2) The course of study shall consist of planned classroom 6314
and clinical instruction for a total of not less than forty-five 6315
contact hours. 6316

(3) The course of study shall meet the requirements to be 6317
approved by the board in accordance with standards established in 6318
rules adopted under section 4723.50 of the Revised Code. 6319

- (4) The content of the course of study shall be specific to the applicant's nursing specialty. 6320
6321
- (5) The instruction provided in the course of study shall include all of the following: 6322
6323
- (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; 6324
6325
6326
6327
- (b) Instruction in the fiscal and ethical implications of prescribing drugs and therapeutic devices; 6328
6329
- (c) Instruction in the state and federal laws that apply to the authority to prescribe; 6330
6331
- (d) Instruction that is specific to schedule II controlled substances, including instruction in all of the following: 6332
6333
- (i) Indications for the use of schedule II controlled substances in drug therapies; 6334
6335
- (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; 6336
6337
6338
- (iii) Fiscal and ethical implications of prescribing schedule II controlled substances; 6339
6340
- (iv) State and federal laws that apply to the authority to prescribe schedule II controlled substances; 6341
6342
- (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. 6343
6344
6345
6346
6347
- (e) Any additional instruction required pursuant to rules adopted under section 4723.50 of the Revised Code. 6348
6349

(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;~~ 6381

~~(5) If the applicant includes the evidence described in 6382
division (C)(3)(b) of this section, documentation from a licensed 6383
physician employed by the United States government in a form 6384
acceptable to the board that the prescribing component of the 6385
nurse's practice was overseen or supervised by a licensed 6386
physician employed by the United States government;~~ 6387

~~(6) Evidence of having completed a two-hour course of 6388
instruction approved by the board in the laws of this state that 6389
govern drugs and prescriptive authority;~~ 6390

~~(7)(5) Any additional information the board requires pursuant 6391
to rules adopted under section 4723.50 of the Revised Code. 6392~~

(D) An applicant who practiced or is practicing as a clinical 6393
nurse specialist, certified nurse-midwife, or certified nurse 6394
practitioner in another jurisdiction or as an employee of the 6395
United States government, and is not seeking authority to 6396
prescribe drugs and therapeutic devices by meeting the 6397
requirements of division (A) or (C) of this section, shall include 6398
with the application submitted under section 4723.48 of the 6399
Revised Code all of the following: 6400

~~(1) Subject to section 4723.483 of the Revised Code, evidence 6401
Evidence of holding a current, valid certificate of authority 6402
issued under this chapter to practice as a clinical nurse 6403
specialist, certified nurse-midwife, or certified nurse 6404
practitioner;~~ 6405

(2) The fee required by section 4723.08 of the Revised Code 6406
for a certificate to prescribe; 6407

(3) Either of the following: 6408

(a) Evidence of having held, for a continuous period of at 6409
least one year during the three years immediately preceding the 6410

date of application, valid authority issued by another 6411
jurisdiction to prescribe therapeutic devices and drugs, excluding 6412
controlled substances; 6413

(b) Evidence of having been employed by the United States 6414
government and authorized, for a continuous period of at least one 6415
year during the three years immediately preceding the date of 6416
application, to prescribe therapeutic devices and drugs, excluding 6417
controlled substances, in conjunction with that employment. 6418

~~(4) If the applicant includes the evidence described in 6419
division (D)(3)(a) of this section, documentation from a licensed 6420
physician in a form acceptable to the board that the prescribing 6421
component of the nurse's practice was overseen or supervised by a 6422
licensed physician in the other jurisdiction;~~ 6423

~~(5) If the applicant includes the evidence described in 6424
division (D)(3)(b) of this section, documentation from a licensed 6425
physician employed by the United States government in a form 6426
acceptable to the board that the prescribing component of the 6427
nurse's practice was overseen or supervised by a licensed 6428
physician employed by the United States government;~~ 6429

~~(6) Any additional information the board requires pursuant to 6430
rules adopted under section 4723.50 of the Revised Code. 6431~~

Sec. 4723.485. (A) A (1) Except as provided in division 6432
(A)(2) of this section, a certificate to prescribe issued under 6433
section 4723.48 of the Revised Code as an externship certificate 6434
is valid for not more than one year, unless earlier suspended or 6435
revoked by the board of nursing. The 6436

(2) An externship certificate may be extended beyond the 6437
period for an additional year which it was issued if the holder 6438
submits to the board evidence of continued participation in an 6439
externship. The extension period shall not exceed two years. 6440

(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 6470
to prescribe. 6471

The board shall adopt rules that are consistent with the 6472
recommendations the board receives from the committee on 6473
prescriptive governance pursuant to section 4723.492 of the 6474
Revised Code. After reviewing a recommendation submitted by the 6475
committee, the board may either adopt the recommendation as a rule 6476
or ask the committee to reconsider and resubmit the 6477
recommendation. The board shall not adopt any rule that does not 6478
conform to a recommendation made by the committee. 6479

(B) The board shall adopt rules under this section that do 6480
all of the following: 6481

(1) Establish a formulary listing the types of drugs and 6482
therapeutic devices that may be prescribed by a clinical nurse 6483
specialist, certified nurse-midwife, or certified nurse 6484
practitioner. The formulary may include controlled substances, as 6485
defined in section 3719.01 of the Revised Code. The formulary 6486
shall not permit the prescribing of any drug or device to perform 6487
or induce an abortion. 6488

(2) Establish safety standards to be followed by a clinical 6489
nurse specialist, certified nurse-midwife, or certified nurse 6490
practitioner when personally furnishing to patients complete or 6491
partial supplies of antibiotics, antifungals, scabicides, 6492
contraceptives, prenatal vitamins, antihypertensives, drugs and 6493
devices used in the treatment of diabetes, drugs and devices used 6494
in the treatment of asthma, and drugs used in the treatment of 6495
dyslipidemia; 6496

(3) Establish criteria for the components of the standard 6497
care arrangements described in section 4723.431 of the Revised 6498
Code that apply to the authority to prescribe, including the 6499
components that apply to the authority to prescribe schedule II 6500

controlled substances. The rules shall be consistent with that 6501
section and include all of the following: 6502

(a) Quality assurance standards; 6503

(b) Standards for periodic review by a collaborating 6504
physician or podiatrist of the records of patients treated by the 6505
clinical nurse specialist, certified nurse-midwife, or certified 6506
nurse practitioner; 6507

(c) Acceptable travel time between the location at which the 6508
clinical nurse specialist, certified nurse-midwife, or certified 6509
nurse practitioner is engaging in the prescribing components of 6510
the nurse's practice and the location of the nurse's collaborating 6511
physician or podiatrist; 6512

(d) Any other criteria recommended by the committee on 6513
prescriptive governance. 6514

(4) Establish standards and procedures for issuance and 6515
renewal of a certificate to prescribe, including specification of 6516
any additional information the board may require under division 6517
(A)(4), (C)~~(7)~~(5), or (D)~~(6)~~(5) of section 4723.482 or division 6518
(B)(3) of section 4723.485 of the Revised Code; 6519

(5) Establish standards for board approval of the course of 6520
study in advanced pharmacology and related topics required by 6521
section 4723.482 of the Revised Code; 6522

(6) Establish requirements for board approval of the two-hour 6523
course of instruction in the laws of this state as required under 6524
division (C)~~(6)~~(4) of section 4723.482 of the Revised Code and 6525
division (B)(2) of section 4723.484 of the Revised Code; 6526

(7) Establish standards and procedures for the appropriate 6527
conduct of an externship as described in section 4723.484 of the 6528
Revised Code, including the following: 6529

(a) Standards and procedures to be used in evaluating an 6530

individual's participation in an externship; 6531

(b) Standards and procedures for the supervision that a 6532
physician must provide during an externship, including supervision 6533
provided by working with the participant and supervision provided 6534
by making timely reviews of the records of patients treated by the 6535
participant. The manner in which supervision must be provided may 6536
vary according to the location where the participant is practicing 6537
and with the participant's level of experience. 6538

Sec. 4723.61. As used in this section and in sections ~~4723.62~~ 6539
~~4723.64~~ to 4723.69 of the Revised Code: 6540

(A) "Medication" means a drug, as defined in section 4729.01 6541
of the Revised Code. 6542

(B) "Medication error" means a failure to follow the 6543
prescriber's instructions when administering a prescription 6544
medication. 6545

(C) "Nursing home" and "residential care facility" have the 6546
same meanings as in section 3721.01 of the Revised Code. 6547

(D) "Prescription medication" means a medication that may be 6548
dispensed only pursuant to a prescription. 6549

(E) "Prescriber" and "prescription" have the same meanings as 6550
in section 4729.01 of the Revised Code. 6551

Sec. 4723.64. ~~On and after the thirty-first day following the~~ 6552
~~board of nursing's submission of the report required by division~~ 6553
~~(F)(2) of section 4723.63 of the Revised Code, any~~ A nursing home 6554
or residential care facility may use one or more medication aides 6555
to administer prescription medications to its residents, subject 6556
to both of the following conditions: 6557

(A) Each individual used as a medication aide must hold a 6558
current, valid medication aide certificate issued by the board of 6559

nursing under this chapter. 6560

(B) The nursing home or residential care facility shall 6561
ensure that the requirements of section 4723.67 of the Revised 6562
Code are met. 6563

Sec. 4723.65. ~~(A)~~ An individual seeking certification as a 6564
medication aide shall apply to the board of nursing on a form 6565
prescribed and provided by the board. ~~If the~~ The application ~~is~~ 6566
~~submitted on or after the day any nursing home or residential care~~ 6567
~~facility may initially use medication aides as specified in~~ 6568
~~section 4723.64 of the Revised Code, the application shall be~~ 6569
accompanied by the certification fee established in rules adopted 6570
under section 4723.69 of the Revised Code. 6571

~~(B)(1) Except as provided in division (B)(2) of this section,~~ 6572
~~an applicant for a medication aide certificate shall submit a~~ 6573
~~request to the bureau of criminal identification and investigation~~ 6574
~~for a criminal records check. The request shall be on the form~~ 6575
~~prescribed pursuant to division (C)(1) of section 109.572 of the~~ 6576
~~Revised Code and shall be accompanied by a standard impression~~ 6577
~~sheet to obtain fingerprints prescribed pursuant to division~~ 6578
~~(C)(2) of that section. The request shall also be accompanied by~~ 6579
~~the fee prescribed pursuant to division (C)(3) of section 109.572~~ 6580
~~of the Revised Code. On receipt of the completed form, the~~ 6581
~~completed impression sheet, and the fee, the bureau shall conduct~~ 6582
~~a criminal records check of the applicant. On completion of the~~ 6583
~~criminal records check, the bureau shall send the results of the~~ 6584
~~check to the board. An applicant requesting a criminal records~~ 6585
~~check under this division who has not lived in this state for at~~ 6586
~~least five years shall ask the superintendent of the bureau of~~ 6587
~~criminal identification and investigation to also request that the~~ 6588
~~federal bureau of investigation provide the superintendent with~~ 6589
~~any information it has with respect to the applicant.~~ 6590

~~(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; 6621

(5) Successfully complete the course of instruction provided 6622
by a training program approved by the board under section 4723.66 6623
of the Revised Code; 6624

~~(6) Have results on the criminal records check provided to 6625
the board under division (B)(1) or (2) of section 4723.65 of the 6626
Revised Code indicating that the applicant has not been convicted 6627
of, has not pleaded guilty to, and has not had a judicial finding 6628
of guilt for violating section 2903.01, 2903.02, 2903.03, 2903.11, 6629
2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, or 2911.11 6630
of the Revised Code or a substantially similar law of another 6631
state, the United States, or another country Not be ineligible for 6632
licensure or certification as specified in section 4723.092 of the 6633
Revised Code; 6634~~

(7) Have not committed any act that is grounds for 6635
disciplinary action under section 3123.47 or 4723.28 of the 6636
Revised Code or be determined by the board to have made 6637
restitution, been rehabilitated, or both; 6638

(8) Not be required to register under Chapter 2950. of the 6639
Revised Code or a substantially similar law of another state, the 6640
United States, or another country; 6641

(9) Meet all other requirements for a medication aide 6642
certificate established in rules adopted under section 4723.69 of 6643
the Revised Code. 6644

(B) If an applicant meets the requirement specified in 6645
division (A) of this section, the board shall issue a medication 6646
aide certificate to the applicant. If a medication aide 6647
certificate is issued to an individual on the basis of having at 6648
least one year of direct care experience working in a residential 6649
care facility, as provided in division (A)(4) of this section, the 6650
certificate is valid for use only in a residential care facility. 6651

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 6683
section 4723.28 of the Revised Code. In addition, the board may 6684
issue an order to summarily suspend or automatically suspend a 6685
medication aide certificate in the same manner that the board is 6686
authorized to take those actions under section 4723.281 of the 6687
Revised Code. 6688

Sec. 4723.653. (A) No person shall engage in the 6689
administration of medication as a medication aide, represent the 6690
person as being a certified medication aide, or use the title, 6691
"medication aide," or any other title implying that the person is 6692
a certified medication aide, for a fee, salary, or other 6693
compensation, or as a volunteer, without holding a current, valid 6694
certificate as a medication aide under this chapter. 6695

(B) No person shall employ a person not certified as a 6696
medication aide under this chapter to engage in the administration 6697
of medication as a medication aide. 6698

Sec. 4723.66. (A) A person or government entity seeking 6699
approval to provide a medication aide training program shall apply 6700
to the board of nursing on a form prescribed and provided by the 6701
board. ~~If the application is submitted on or after the day any 6702~~
~~nursing home or residential care facility may initially use 6703~~
~~medication aides as specified in section 4723.64 of the Revised 6704~~
~~Code, the~~ The application shall be accompanied by the fee 6705
established in rules adopted under section 4723.69 of the Revised 6706
Code. 6707

(B) The board shall approve the applicant to provide a 6708
medication aide training program if the content of the course of 6709
instruction to be provided by the program meets the standards 6710
specified by the board in rules adopted under section 4723.69 of 6711
the Revised Code and includes all of the following: 6712

(1) At least seventy clock-hours of instruction, including 6713
both classroom instruction on medication administration and at 6714
least twenty clock-hours of supervised clinical practice in 6715
medication administration; 6716

(2) A mechanism for evaluating whether an individual's 6717
reading, writing, and mathematical skills are sufficient for the 6718
individual to be able to administer prescription medications 6719
safely; 6720

(3) An examination that tests the ability to administer 6721
prescription medications safely and that meets the requirements 6722
established by the board in rules adopted under section 4723.69 of 6723
the Revised Code. 6724

(C) The board may deny, suspend, or revoke the approval 6725
granted to the provider of a medication aide training program for 6726
reasons specified in rules adopted under section 4723.69 of the 6727
Revised Code. All actions taken by the board to deny, suspend, or 6728
revoke the approval of a training program shall be taken in 6729
accordance with Chapter 119. of the Revised Code. 6730

Sec. 4723.67. (A) Except for the prescription medications 6731
specified in division (C) of this section and the methods of 6732
medication administration specified in division (D) of this 6733
section, a medication aide who holds a current, valid medication 6734
aide certificate issued under this chapter may administer 6735
prescription medications to the residents of nursing homes and 6736
residential care facilities that use medication aides pursuant to 6737
section ~~4723.63~~ or 4723.64 of the Revised Code. A medication aide 6738
shall administer prescription medications only pursuant to the 6739
delegation of a registered nurse or a licensed practical nurse 6740
acting at the direction of a registered nurse. 6741

Delegation of medication administration to a medication aide 6742
shall be carried out in accordance with the rules for nursing 6743

delegation adopted under this chapter by the board of nursing. A 6744
nurse who has delegated to a medication aide responsibility for 6745
the administration of prescription medications to the residents of 6746
a nursing home or residential care facility shall not withdraw the 6747
delegation on an arbitrary basis or for any purpose other than 6748
patient safety. 6749

(B) In exercising the authority to administer prescription 6750
medications pursuant to nursing delegation, a medication aide may 6751
administer prescription medications in any of the following 6752
categories: 6753

(1) Oral medications; 6754

(2) Topical medications; 6755

(3) Medications administered as drops to the eye, ear, or 6756
nose; 6757

(4) Rectal and vaginal medications; 6758

(5) Medications prescribed with a designation authorizing or 6759
requiring administration on an as-needed basis, but only if a 6760
nursing assessment of the patient is completed before the 6761
medication is administered. 6762

(C) A medication aide shall not administer prescription 6763
medications in either of the following categories: 6764

(1) Medications containing a schedule II controlled 6765
substance, as defined in section 3719.01 of the Revised Code; 6766

(2) Medications requiring dosage calculations. 6767

(D) A medication aide shall not administer prescription 6768
medications by any of the following methods: 6769

(1) Injection; 6770

(2) Intravenous therapy procedures; 6771

(3) Splitting pills for purposes of changing the dose being 6772

given. 6773

(E) A nursing home or residential care facility that uses 6774
medication aides shall ensure that medication aides do not have 6775
access to any schedule II controlled substances within the home or 6776
facility for use by its residents. 6777

Sec. 4723.68. (A) A registered nurse, or licensed practical 6778
nurse acting at the direction of a registered nurse, who delegates 6779
medication administration to a medication aide who holds a 6780
current, valid medication aide certificate issued under this 6781
chapter is not liable in damages to any person or government 6782
entity in a civil action for injury, death, or loss to person or 6783
property that allegedly arises from an action or omission of the 6784
medication aide in performing the medication administration, if 6785
the delegating nurse delegates the medication administration in 6786
accordance with this chapter and the rules adopted under this 6787
chapter. 6788

(B) A person employed by a nursing home or residential care 6789
facility that uses medication aides pursuant to section ~~4723.63~~ or 6790
4723.64 of the Revised Code who reports in good faith a medication 6791
error at the nursing home or residential care facility is not 6792
subject to disciplinary action by the board of nursing or any 6793
other government entity regulating that person's professional 6794
practice and is not liable in damages to any person or government 6795
entity in a civil action for injury, death, or loss to person or 6796
property that allegedly results from reporting the medication 6797
error. 6798

Sec. 4723.69. (A) ~~In consultation with the medication aide~~ 6799
~~advisory council created under section 4723.62 of the Revised~~ 6800
~~Code, the~~ The board of nursing shall adopt rules to implement 6801
sections 4723.61 to 4723.68 of the Revised Code. ~~Initial rules~~ 6802

~~shall be adopted not later than February 1, 2006.~~ All rules 6803
adopted under this section shall be adopted in accordance with 6804
Chapter 119. of the Revised Code. 6805

(B) The rules adopted under this section shall establish or 6806
specify all of the following: 6807

(1) Fees, in an amount sufficient to cover the costs the 6808
board incurs in implementing sections 4723.61 to 4723.68 of the 6809
Revised Code, for ~~participation in the medication aide pilot~~ 6810
~~program,~~ certification as a medication aide, and approval of a 6811
medication aide training program; 6812

(2) Requirements to obtain a medication aide certificate that 6813
are not otherwise specified in section 4723.651 of the Revised 6814
Code; 6815

(3) Procedures for renewal of medication aide certificates; 6816

(4) The extent to which the board determines that the reasons 6817
for taking disciplinary actions under section 4723.28 of the 6818
Revised Code are applicable reasons for taking disciplinary 6819
actions under section 4723.652 of the Revised Code against an 6820
applicant for or holder of a medication aide certificate; 6821

~~(5) Standards for approval of peer support programs for the~~ 6822
~~holders of medication aide certificates;~~ 6823

~~(6)~~ Standards for medication aide training programs, 6824
including the examination to be administered by the training 6825
program to test an individual's ability to administer prescription 6826
medications safely; 6827

(6) Standards for approval of continuing education programs 6828
and courses for medication aides; 6829

(7) Reasons for denying, revoking, or suspending approval of 6830
a medication aide training program; 6831

(8) Other standards and procedures the board considers 6832

necessary to implement sections 4723.61 to 4723.68 of the Revised Code. 6833
6834

Sec. 4723.71. (A) There is hereby established, under the 6835
board of nursing, the advisory group on dialysis. The advisory 6836
group shall advise the board of nursing regarding the 6837
qualifications, standards for training, and competence of dialysis 6838
technicians and dialysis technician interns and all other related 6839
matters ~~related to dialysis technicians~~. The advisory group shall 6840
consist of the members appointed under divisions (B) and (C) of 6841
this section. A member of the board of nursing or a representative 6842
appointed by the board shall serve as chairperson of all meetings 6843
of the advisory group. 6844

(B) The board of nursing shall appoint the following as 6845
members of the advisory group: 6846

(1) Four dialysis technicians; 6847

(2) A registered nurse who regularly performs dialysis and 6848
cares for patients who receive dialysis; 6849

(3) A physician, recommended by the state medical board, who 6850
specializes in nephrology; 6851

(4) An administrator of a dialysis center; 6852

(5) A dialysis patient; 6853

(6) A representative of the ~~association for hospitals and~~ 6854
~~health systems (OHA)~~ Ohio hospital association; 6855

(7) A representative from the end-stage renal disease 6856
network, as defined in 42 C.F.R. 405.2102. 6857

(C) The members of the advisory group appointed under 6858
division (B) of this section may recommend additional persons to 6859
serve as members of the advisory group. The board of nursing may 6860
appoint, as appropriate, any of the additional persons 6861

recommended. 6862

(D) The board of nursing shall specify the terms for the 6863
advisory group members. Members shall serve at the discretion of 6864
the board of nursing. Members shall receive their actual and 6865
necessary expenses incurred in the performance of their official 6866
duties. 6867

(E) Sections 101.82 to 101.87 of the Revised Code do not 6868
apply to the advisory group. 6869

Sec. 4723.72. (A) A dialysis technician or dialysis 6870
technician intern may engage in dialysis care by doing the 6871
following: 6872

(1) Performing and monitoring dialysis procedures, including 6873
initiating, monitoring, and discontinuing dialysis; 6874

(2) Drawing blood; 6875

(3) Administering ~~any of the~~ medications as specified in 6876
division (C) of this section when the administration is essential 6877
to the dialysis process; 6878

(4) Responding to complications that arise during dialysis. 6879

(B) A (1) Subject to divisions (B)(2) and (3) of this 6880
section, a dialysis technician or dialysis technician intern may 6881
provide the dialysis care specified in division (A) of this 6882
section only if the care has been delegated to the technician or 6883
intern by a physician or registered nurse and the technician or 6884
intern is under the supervision of a physician or registered 6885
nurse. Supervision requires that the dialysis technician or 6886
dialysis technician intern be in the immediate presence of a 6887
physician or registered nurse, ~~or, in.~~ 6888

(2) In accordance with division (E) of section 4723.73 of the 6889
Revised Code, a dialysis technician intern shall not provide 6890
dialysis care in a patient's home. 6891

(3) In the case of dialysis care provided in a patient's home 6892
by a dialysis technician, that the dialysis both of the following 6893
apply: 6894

(a) The technician shall be supervised in accordance with the 6895
rules adopted under section 4723.79 of the Revised Code for 6896
supervision of dialysis technicians who provide dialysis care in a 6897
patient's home. ~~Division (E)~~ 6898

(b) Division (D)(5) of section 4723.73 of the Revised Code 6899
does not allow a dialysis technician who provides dialysis care in 6900
a patient's home to provide dialysis care that is not authorized 6901
under this section. 6902

(C) A dialysis technician or dialysis technician intern may 6903
administer ~~medication~~ only the following medications as ordered by 6904
a licensed health professional authorized to prescribe drugs as 6905
defined in section 4729.01 of the Revised Code and in accordance 6906
with the standards for the delegation of dialysis care established 6907
in division (B) of this section and in rules adopted under section 6908
4723.79 of the Revised Code. ~~A dialysis technician may administer~~ 6909
~~only the following medications:~~ 6910

(1) Intradermal lidocaine or other single therapeutically 6911
equivalent local anesthetic for the purpose of initiating dialysis 6912
treatment; 6913

(2) Intravenous heparin or other single therapeutically 6914
equivalent anticoagulant for the purpose of initiating and 6915
maintaining dialysis treatment; 6916

(3) Intravenous normal saline; 6917

(4) Patient-specific dialysate, to which the ~~person~~ 6918
technician or intern may add electrolytes but no other additives 6919
or medications; 6920

(5) Oxygen, ~~when the administration of the oxygen has been~~ 6921

~~delegated to the technician by a registered nurse.~~ 6922

Sec. 4723.73. (A) No person ~~shall claim to the public to be a~~ 6923
~~dialysis technician unless the person holds~~ who does not hold a 6924
current, valid certificate issued under section 4723.75 or renewed 6925
under section 4723.77 ~~or a current, valid temporary certificate~~ 6926
~~issued under section 4723.76~~ of the Revised Code. shall do either 6927
of the following: 6928

(1) Claim to the public to be a dialysis technician; 6929

~~(B) No person shall use~~ (2) Use the title "Ohio certified 6930
dialysis technician," the initials "OCDT," or any other title or 6931
initials to represent that the person is authorized to perform 6932
dialysis care as a ~~fully certified~~ dialysis technician, ~~unless the~~ 6933
~~person holds a current, valid certificate issued under section~~ 6934
~~4723.75 or renewed under section 4723.77~~ of the Revised Code. 6935

~~(C)~~(B) No person who does not hold a current, valid dialysis 6936
technician intern certificate issued under section 4723.76 of the 6937
Revised Code shall ~~use any~~ do either of the following: 6938

(1) Claim to the public to be a dialysis technician intern; 6939

(2) Use the title ~~or~~ "dialysis technician intern," the 6940
initials "DTI," or any other title or initials to represent that 6941
the person is authorized to perform dialysis care as a ~~temporarily~~ 6942
~~certified~~ dialysis technician, ~~unless the person holds a current,~~ 6943
~~valid temporary certificate issued under section 4723.76 of the~~ 6944
~~Revised Code~~ intern. 6945

~~(D)~~(C) No dialysis technician or dialysis technician intern 6946
shall engage in dialysis care in a manner that is inconsistent 6947
with section 4723.72 of the Revised Code. 6948

~~(E)~~(D) No person other than a dialysis technician or dialysis 6949
technician intern shall engage in the dialysis care that is 6950
authorized by section 4723.72 of the Revised Code, unless the 6951

person is one or more of the following applies: 6952

(1) ~~The person is a~~ A registered nurse or licensed practical nurse-*i* 6953
6954

(2) ~~The person is a~~ A physician-*i* 6955

(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-*i* 6956
6957
6958
6959

(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-*i* 6960
6961
6962
6963

(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. 6964
6965
6966
6967
6968
6969
6970

(E) No dialysis technician intern shall do either of the following: 6971
6972

(1) Serve as a trainer or preceptor in a dialysis training program; 6973
6974

(2) Provide dialysis care in a patient's home. 6975

(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. 6976
6977
6978

Sec. 4723.74. (A) A person who seeks to operate a dialysis training program shall apply to the board of nursing for approval 6979
6980

of the program. Applications shall be submitted in accordance with 6981
rules adopted under section 4723.79 of the Revised Code. The 6982
person shall include with the application the fee prescribed in 6983
those rules. If the program meets the requirements for approval as 6984
specified in the rules, the board shall approve the program. A 6985
program shall apply for reapproval and may be reapproved in 6986
accordance with rules adopted under section 4723.79 of the Revised 6987
Code. 6988

(B) The board may place on provisional approval, for a period 6989
of time it specifies, a dialysis training program that has ceased 6990
to meet and maintain the minimum standards of the board 6991
established by rules adopted under section 4723.79 of the Revised 6992
Code. Prior to or at the end of the period, the board shall 6993
reconsider whether the program meets the standards. The board 6994
shall grant full approval if the program meets the standards. If 6995
the program does not meet the standards, the board may withdraw 6996
approval in accordance with division (C) of this section. 6997

(C) The board may withdraw the approval of a program that 6998
ceases to meet the requirements for approval. Any action to 6999
withdraw the approval shall be taken in accordance with Chapter 7000
119. of the Revised Code. 7001

~~(B) A person~~ (D) An individual shall not be permitted to 7002
enroll, and shall not enroll, in a dialysis training program 7003
approved by the board under ~~division (A) of~~ this section unless 7004
the ~~person~~ individual is eighteen years of age or older and 7005
possesses a high school diploma or high school equivalence 7006
diploma. 7007

Sec. 4723.75. (A) The board of nursing shall issue a 7008
certificate to practice as a dialysis technician to ~~a person~~ an 7009
applicant who meets ~~all of~~ the following applicable requirements: 7010

(1) For all ~~persons~~ applicants, the ~~person~~ applies 7011

application is submitted to the board in accordance with rules 7012
adopted under section 4723.79 of the Revised Code and includes 7013
with the application the both of the following: 7014

(a) The fee established in these rules adopted under section 7015
4723.79 of the Revised Code; 7016

(b) The name and address of each approved dialysis training 7017
program in which the applicant has enrolled and the dates during 7018
which the applicant was enrolled in each program. 7019

(2) For all ~~persons~~ applicants, the ~~person~~ applicant meets 7020
the requirements established by the board's rules. 7021

(3) For all ~~persons~~ applicants, the ~~person~~ applicant 7022
demonstrates competency to practice as a dialysis technician, as 7023
specified ~~under~~ in division (B) of this section. 7024

(4) For ~~persons~~ applicants who entered a dialysis training 7025
program on or after June 1, 2003, the results of a criminal 7026
~~records check of the person that is completed by the bureau of~~ 7027
~~criminal identification and investigation and includes a check of~~ 7028
~~federal bureau of investigation records and that the bureau~~ 7029
~~submits to the board indicates that the person has not been~~ 7030
~~convicted of, has not pleaded guilty to, and has not had a~~ 7031
~~judicial finding of guilt for violating section 2903.01, 2903.02,~~ 7032
~~2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02,~~ 7033
~~2911.01, or 2911.11 of the Revised Code or a substantially similar~~ 7034
~~law of another state, the United States, or another country~~ 7035
conducted in accordance with section 4723.091 of the Revised Code 7036
demonstrate that the applicant is not ineligible for certification 7037
as specified in section 4723.092 of the Revised Code. 7038

(B) For a ~~person~~ an applicant to demonstrate competence to 7039
practice as a dialysis technician, one of the following must 7040
apply: 7041

(1) The ~~person~~ meets all of the following requirements: 7042

~~(a) The person applicant has successfully completed a dialysis training program approved by the board under section 4723.74 of the Revised Code.~~ 7043
7044
7045

~~(b) The person has been employed to perform and meets both of the following requirements:~~ 7046
7047

~~(a) Has performed dialysis care ~~by~~ for a dialysis provider for not less than twelve months immediately prior to the date of application.~~ 7048
7049
7050

~~(c) The person passes;~~ 7051

~~(b) Has passed a certification examination demonstrating competence to perform dialysis care. The person must pass the examination not later than eighteen months after 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.~~ 7052
7053
7054
7055
7056
7057
7058
7059
7060
7061
7062
7063
7064
7065
7066
7067
7068

~~(2) The person meets both of the following requirements:~~ 7069

~~(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~~ 7070
7071
7072
7073

~~passed the examination of a qualifying testing organization not longer than five years prior to December 24, 2000.~~ 7074
7075

~~(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.~~ 7076
7077
7078
7079

~~(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:~~ 7080
7081
7082
7083
7084
7085
7086

~~(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;~~ 7087
7088
7089
7090

~~(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;~~ 7091
7092
7093
7094

~~(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.~~ 7095
7096
7097

~~(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~~ 7098
7099
7100
7101
7102
7103
7104

~~accompanied by the fee prescribed pursuant to division (C)(3) of 7105
that section. Upon receipt of the completed form, the completed 7106
impression sheet, and the fee, the bureau shall conduct a criminal 7107
records check of the applicant. Upon completion of the criminal 7108
records check, the bureau shall send the results of the check to 7109
the board. A person requesting a criminal records check under this 7110
division shall ask the superintendent of the bureau of criminal 7111
identification and investigation to also request the federal 7112
bureau of investigation to provide the superintendent with any 7113
information it has with respect to the person. 7114~~

~~The results of any criminal records check conducted pursuant 7115
to a request made under this section, and any report containing 7116
those results, are not public records for purposes of section 7117
149.43 of the Revised Code and shall not be made available to any 7118
person or for any purpose other than the following: 7119~~

~~(1) The results may be made available to any person for use 7120
in determining under this section and division (N) of section 7121
4723.28 of the Revised Code whether the individual who is the 7122
subject of the check should be issued a certificate to practice as 7123
a dialysis technician. 7124~~

~~(2) The results may be made available to the individual who 7125
is the subject of the check or that individual's representative. 7126
An applicant who does not pass the certification examination 7127
described in division (B)(1)(b) of this section within the time 7128
period prescribed in that division may continue to pursue 7129
certification by repeating the entire training and application 7130
process, including doing all of the following: 7131~~

~~(1) Enrolling in and successfully completing a dialysis 7132
training program approved by the board; 7133~~

~~(2) Submitting a request to the bureau of criminal 7134
identification and investigation for a criminal records check and 7135~~

check of federal bureau of investigation records pursuant to 7136
section 4723.091 of the Revised Code; 7137

(3) Submitting an application for a dialysis technician 7138
intern certificate in accordance with section 4723.76 of the 7139
Revised Code; 7140

(4) Demonstrating competence to perform dialysis care in 7141
accordance with division (B) of this section. 7142

Sec. 4723.751. ~~(A)~~ The board of nursing shall either conduct 7143
dialysis technician certification examinations itself or, in 7144
accordance with rules adopted under section 4723.79 of the Revised 7145
Code, approve testing organizations to conduct the examinations. 7146
If it conducts the examinations, the board may use all or part of 7147
a standard examination created by a testing organization approved 7148
by the board. Regardless of who conducts it, the examination shall 7149
cover all of the subjects specified in rules adopted under section 7150
4723.79 of the Revised Code. 7151

~~(B) The board shall specify the testing organizations that~~ 7152
~~qualify a person to demonstrate competence to practice as a~~ 7153
~~dialysis technician pursuant to division (B)(2) of section 4723.75~~ 7154
~~of the Revised Code.~~ 7155

Sec. 4723.76. (A) The board of nursing shall issue a 7156
~~temporary~~ certificate to practice as a dialysis technician intern 7157
~~to a person~~ an applicant who has not passed the dialysis 7158
technician certification examination required by section 4723.751 7159
of the Revised Code, but who ~~meets~~ satisfies all of the following 7160
requirements: 7161

(1) ~~The person applies~~ Applies to the board in accordance 7162
with rules adopted under section 4723.79 of the Revised Code and 7163
includes with the application ~~the~~ both of the following: 7164

(a) The fee established in these rules adopted under section 7165

4723.79 of the Revised Code; 7166

(b) The name and address of all dialysis training programs 7167
approved by the board in which the applicant has been enrolled and 7168
the dates of enrollment in each program. 7169

(2) ~~The person provides~~ Provides documentation from the 7170
~~person's applicant's~~ employer ~~that demonstrates~~ attesting that the 7171
~~person applicant~~ is competent to perform dialysis care-; 7172

(3) ~~One of the following applies:~~ 7173

~~(a) The person has~~ Has successfully completed a dialysis 7174
training program approved by the board of nursing under section 7175
4723.74 of the Revised Code. 7176

~~(b) The person is, on December 24, 2000, employed as a~~ 7177
~~dialysis technician but has been so employed for less than twelve~~ 7178
~~months.~~ 7179

~~(c) The person has experience as a dialysis technician in a~~ 7180
~~jurisdiction that does not license or certify dialysis technicians~~ 7181
~~and has successfully completed a training program that is~~ 7182
~~substantially similar to a program approved by the board.~~ 7183

(B) A ~~temporary~~ dialysis technician intern certificate issued 7184
to a ~~person~~ an applicant who meets the ~~requirement~~ requirements in 7185
division (A)(3)(a) of this section is valid for a period of time 7186
that is eighteen months from the date on which the ~~holder~~ entered 7187
applicant successfully completed a dialysis training program 7188
approved by the board under section 4723.74 of the Revised Code, 7189
minus the time the applicant was enrolled in one or more dialysis 7190
training programs approved by the board. 7191

~~A temporary certificate issued to a person who meets the~~ 7192
~~requirement in division (A)(3)(b) of this section is valid for the~~ 7193
~~number of months equal to eighteen months minus the number of~~ 7194
~~months the person has been employed as a dialysis technician.~~ 7195

~~A temporary certificate issued to a person who meets the requirement in division (A)(3)(c) 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)(c) 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 7228
administer and enforce sections 4723.71 to 4723.79 of the Revised 7229
Code. The board shall adopt the rules in accordance with Chapter 7230
119. of the Revised Code. The rules shall establish or specify all 7231
of the following: 7232

(A) The application process, fee, and requirements for 7233
approval, reapproval, and withdrawing the approval of a dialysis 7234
training program under section 4723.74 of the Revised Code. The 7235
requirements shall include standards that must be satisfied 7236
regarding curriculum, length of training, and instructions in 7237
patient care. 7238

(B) The application process, fee, and requirements for 7239
issuance of a dialysis technician certificate under section 7240
4723.75 of the Revised Code, except that the amount of the fee 7241
shall be no greater than the fee charged under division (A)(1) of 7242
section 4723.08 of the Revised Code; 7243

(C) The application process, fee, and requirements for 7244
issuance of a ~~temporary~~ dialysis technician intern certificate 7245
under section 4723.76 of the Revised Code; 7246

(D) The process for approval of testing organizations under 7247
section 4723.751 of the Revised Code; 7248

(E) Subjects to be included in a certification examination 7249
~~provided for in division (B)(1) of~~ pursuant to section ~~4723.75~~ 7250
4723.751 of the Revised Code; 7251

(F) The schedule, fees, and continuing education requirements 7252
for renewal of a dialysis technician certificate under section 7253
4723.77 of the Revised Code, except that the amount of the fee for 7254
~~the renewal of a certificate~~ shall be no greater than the fee 7255
charged under division (A)~~(9)~~(10) of section 4723.08 of the 7256
Revised Code ~~or, effective September 1, 2003, division (A)(10) of~~ 7257

~~that section;~~ 7258

(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;~~ 7259
7260
7261
7262
7263
7264

(H) Standards for the administration of medication by dialysis technicians and dialysis technician interns under section 4723.72 of the Revised Code; 7265
7266
7267

(I) ~~The information a dialysis provider is to provide to the board when attesting to a person's competence to perform dialysis;~~ 7268
7269

~~(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; 7270
7271
7272
7273

~~(K)~~(J) Any other procedures or requirements necessary for the administration and enforcement of sections 4723.71 to 4723.79 of the Revised Code. 7274
7275
7276

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. 7277
7278
7279
7280
7281
7282
7283

~~(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 7284
7285
7286
7287

~~(C)(1) of section 109.572 of the Revised Code, accompanied by a 7288
standard impression sheet to obtain fingerprints prescribed 7289
pursuant to division (C)(2) of that section, and accompanied by 7290
the fee prescribed pursuant to division (C)(3) of that section. On 7291
receipt of the completed form, the completed impression sheet, and 7292
the fee, the bureau shall conduct a criminal records check of the 7293
applicant. On completion of the criminal records check, the bureau 7294
shall send the results of the check to the board. The applicant 7295
shall ask the superintendent of the bureau of criminal 7296
identification and investigation to request that the federal 7297
bureau of investigation provide the superintendent with any 7298
information it has with respect to the applicant. 7299~~

~~The results of any criminal records check conducted pursuant 7300
to a request made under this section, and any report containing 7301
those results, are not public records for purposes of section 7302
149.43 of the Revised Code and shall not be made available to any 7303
person or for any purpose other than the following: 7304~~

~~(1) The results may be made available to any person for use 7305
in determining whether the individual who is the subject of the 7306
check should be issued a community health worker certificate. 7307~~

~~(2) The results may be made available to the individual who 7308
is the subject of the check or that individual's representative. 7309~~

Sec. 4723.84. (A) To be eligible to receive a community 7310
health worker certificate, an applicant shall meet all of the 7311
following conditions: 7312

(1) Be eighteen years of age or older; 7313

(2) Possess a high school diploma or the equivalent of a high 7314
school diploma, as determined by the board; 7315

(3) Except as provided in division (B) of this section, 7316
successfully complete a community health worker training program 7317

approved by the board under section 4723.87 of the Revised Code; 7318

(4) ~~Have results on the criminal records check requested~~ 7319
~~under section 4723.83 of the Revised Code indicating that the~~ 7320
~~individual has not been convicted of, has not pleaded guilty to,~~ 7321
~~and has not had a judicial finding of guilt for violating section~~ 7322
~~2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03,~~ 7323
~~2907.05, 2909.02, 2911.01, or 2911.11 of the Revised Code or a~~ 7324
~~substantially similar law of another state, the United States, or~~ 7325
~~another country~~ Not be ineligible for certification as specified 7326
in section 4723.092 of the Revised Code; 7327

(5) Not have committed any act that is grounds for 7328
disciplinary action under section 3123.47 of the Revised Code or 7329
rules adopted under division (F) of section 4723.88 of the Revised 7330
Code or, if such an act has been committed, be determined by the 7331
board to have made restitution, been rehabilitated, or both; 7332

(6) Not be required to register under Chapter 2950. of the 7333
Revised Code or a substantially similar law of another state, the 7334
United States, or another country; 7335

(7) Meet all other requirements the board specifies in rules 7336
adopted under section 4723.88 of the Revised Code. 7337

(B) In lieu of meeting the condition of completing a 7338
community health worker training program, an applicant may be 7339
issued a community health worker certificate if the individual was 7340
employed in a capacity substantially the same as a community 7341
health worker ~~before the board implemented the certification~~ 7342
~~program~~ prior to February 1, 2005. To be eligible under this 7343
division, an applicant must meet the requirements specified in 7344
rules adopted by the board under section 4723.88 of the Revised 7345
Code and provide documentation from the employer attesting to the 7346
employer's belief that the applicant is competent to perform 7347
activities as a certified community health worker. 7348

Sec. 4723.87. (A) A person or government entity seeking to 7349
operate a training program that prepares individuals to become 7350
certified community health workers shall submit an application to 7351
the board of nursing on forms the board shall prescribe and 7352
furnish. The applicant shall include all information the board 7353
requires to process the application. The application shall be 7354
accompanied by the fee established in rules adopted under section 7355
4723.87 of the Revised Code. 7356

The board shall review all applications received. If an 7357
applicant meets the standards for approval established in the 7358
board's rules adopted under section 4723.88 of the Revised Code, 7359
the board shall approve the program. 7360

(B) The board's approval of a training program expires 7361
biennially and may be renewed in accordance with the schedule and 7362
procedures established by the board in rules adopted under section 7363
4723.88 of the Revised Code. 7364

(C) If an approved community health worker training program 7365
ceases to meet the standards for approval, the board shall 7366
withdraw its approval of the program, refuse to renew its approval 7367
of the program, or place the program on provisional approval. In 7368
withdrawing or refusing to renew its approval, the board shall act 7369
in accordance with Chapter 119. of the Revised Code. In placing a 7370
program on provisional approval, the board shall specify the 7371
period of time during which the provisional approval is valid. ~~At~~ 7372
Prior to or at the end of the period, the board shall reconsider 7373
whether the program meets the standards for approval. If the 7374
program meets the standards for approval, the board shall 7375
reinstate its full approval of the program or renew its approval 7376
of the program. If the program does not meet the standards for 7377
approval, the board shall proceed by withdrawing or refusing to 7378
renew its approval of the program. 7379

Sec. 4723.88. The board of nursing, in accordance with 7380
Chapter 119. of the Revised Code, shall adopt rules to administer 7381
and enforce sections 4723.81 to 4723.87 of the Revised Code. The 7382
rules shall establish all of the following: 7383

(A) Standards and procedures for issuance of community health 7384
worker certificates; 7385

(B) Standards for evaluating the competency of an individual 7386
who applies to receive a certificate on the basis of having been 7387
employed in a capacity substantially the same as a community 7388
health worker before the board implemented the certification 7389
program; 7390

(C) Standards and procedures for renewal of community health 7391
worker certificates, including the continuing education 7392
requirements that must be met for renewal; 7393

(D) Standards governing the performance of activities related 7394
to nursing care that are delegated by a registered nurse to 7395
certified community health workers. In establishing the standards, 7396
the board shall specify limits on the number of certified 7397
community health workers a registered nurse may supervise at any 7398
one time. 7399

(E) Standards and procedures for assessing the quality of the 7400
services that are provided by certified community health workers; 7401

(F) Standards and procedures for denying, suspending, and 7402
revoking a community health worker certificate, including reasons 7403
for imposing the sanctions that are substantially similar to the 7404
reasons that sanctions are imposed under section 4723.28 of the 7405
Revised Code; 7406

(G) Standards and procedures for approving and renewing the 7407
board's approval of training programs that prepare individuals to 7408
become certified community health workers. In establishing the 7409

standards, the board shall specify the minimum components that 7410
must be included in a training program, shall require that all 7411
approved training programs offer the standardized curriculum, and 7412
shall ensure that the curriculum enables individuals to use the 7413
training as a basis for entering programs leading to other 7414
careers, including nursing education programs. 7415

(H) Standards for approval of continuing education programs 7416
and courses for certified community health workers; 7417

(I) Standards and procedures for withdrawing the board's 7418
approval of a training program, refusing to renew the approval of 7419
a training program, and placing a training program on provisional 7420
approval; 7421

~~(I)~~(J) Amounts for each fee that may be imposed under 7422
division (A)~~(25)~~(21) of section 4723.08 of the Revised Code; 7423

~~(J)~~(K) Any other standards or procedures the board considers 7424
necessary and appropriate for the administration and enforcement 7425
of sections 4723.81 to 4723.87 of the Revised Code. 7426

Sec. 4723.99. (A) Except as provided in division (B) of this 7427
section, whoever violates section 4723.03, 4723.44, 4723.653, or 7428
4723.73 of the Revised Code is guilty of a felony of the fifth 7429
degree on a first offense and a felony of the fourth degree on 7430
each subsequent offense. 7431

(B) ~~A~~ Each of the following is guilty of a minor misdemeanor: 7432

(1) A registered nurse or licensed practical nurse who 7433
violates division (A) or (B) of section 4723.03 of the Revised 7434
Code by reason of a license to practice nursing that has lapsed 7435
for failure to renew or by practicing nursing after a license has 7436
been classified as inactive ~~is guilty of a minor misdemeanor;~~ 7437

(2) A medication aide who violates section 4723.653 of the 7438
Revised Code by reason of a medication aide certificate that has 7439

lapsed for failure to renew or by administering medication as a 7440
medication aide after a certificate has been classified as 7441
inactive. 7442

Sec. 4752.02. (A) Except as provided in division (B) of this 7443
section, no person shall provide home medical equipment services 7444
or claim to the public to be a home medical equipment services 7445
provider unless either of the following is the case: 7446

(1) The person holds a valid license issued under this 7447
chapter; 7448

(2) The person holds a valid certificate of registration 7449
issued under this chapter. 7450

(B) Division (A) of this section does not apply to any of the 7451
following: 7452

(1) A health care practitioner, as defined in section 4769.01 7453
of the Revised Code, who does not sell or rent home medical 7454
equipment; 7455

(2) A hospital that provides home medical equipment services 7456
only as an integral part of patient care and does not provide the 7457
services through a separate entity that has its own medicare or 7458
medicaid provider number; 7459

(3) A manufacturer or wholesale distributor of home medical 7460
equipment that does not sell directly to the public; 7461

(4) A hospice care program or pediatric respite care program, 7462
as defined by section 3712.01 of the Revised Code, that does not 7463
sell or rent home medical equipment; 7464

(5) A home, as defined by section 3721.01 of the Revised 7465
Code; 7466

(6) A home health agency that is certified under Title XVIII 7467
of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, 7468

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 7498
~~commission on dietetic registration that is a member of the~~ 7499
~~national commission on health certifying agencies~~ entity that 7500
serves as the credentialing agency for the academy of nutrition 7501
and dietetics. 7502

(D) "Ohio academy of nutrition and dietetics" means the state 7503
professional organization known by that name or a successor 7504
organization that serves in an equivalent capacity. 7505

Sec. 4759.03. There is hereby created the Ohio board of 7506
dietetics consisting of five members appointed by the governor 7507
with the advice and consent of the senate. The Ohio ~~dietetic~~ 7508
~~association~~ academy of nutrition and dietetics may submit a list 7509
of five names for each position or vacancy on the board to be 7510
filled by a dietitian, and the governor may make ~~his appointment~~ 7511
appointments from the persons so recommended or from other 7512
persons. ~~Within~~ 7513

Within thirty days of ~~the effective date of this section~~ July 7514
1, 1987, the governor shall make initial appointments to the 7515
board. Of the initial appointments, one shall be for a term ending 7516
one year after ~~the effective date of this section~~ July 1, 1987, 7517
one shall be for a term ending two years after ~~the effective date~~ 7518
~~of this section~~ July 1, 1987, one shall be for a term ending three 7519
years after ~~the effective date of this section~~ July 1, 1987, one 7520
shall be for a term ending four years after ~~the effective date of~~ 7521
~~this section~~ July 1, 1987, and one shall be for a term ending five 7522
years after ~~the effective date of this section~~ July 1, 1987. 7523
Thereafter, terms of office shall be for five years, each term 7524
ending on the same day of the same month as did the term which it 7525
succeeds. Each member shall hold office from the date of ~~his~~ 7526
appointment until the end of the term for which ~~he~~ the member was 7527
appointed. The governor shall appoint a member to fill a vacancy 7528

in the manner prescribed for filling the position in which the 7529
vacancy occurs. Any member appointed to fill a vacancy occurring 7530
prior to the expiration of the term for which ~~his~~ the member's 7531
predecessor was appointed shall hold office for the remainder of 7532
the term. Any member shall continue in office subsequent to the 7533
expiration date of ~~his~~ the member's term until ~~his~~ a successor 7534
takes office, or until a period of sixty days has elapsed, 7535
whichever occurs first. 7536

Members of the board may be removed by the governor for 7537
malfeasance, misfeasance, or nonfeasance after an adjudication 7538
hearing pursuant to Chapter 119. of the Revised Code. Members may 7539
not be appointed to a second term unless a period of five years 7540
has passed since the expiration of the first term, except that 7541
members appointed for less than a five-year term or appointed to 7542
fill an unexpired term may be appointed for one full term of five 7543
years immediately following the end of the term for which ~~he~~ the 7544
member was first appointed. 7545

Three members of the board shall be dietitians who have been 7546
actively engaged in the practice of dietetics in the state for at 7547
least five years immediately preceding their appointment; one 7548
member shall be an educator with a doctoral degree who holds a 7549
regular faculty appointment in a program that prepares students to 7550
meet the requirements of division (A)(5) of section 4759.06 of the 7551
Revised Code; and one member shall be a member of the general 7552
public who is not and never has been a dietitian, is not a member 7553
of the immediate family of a dietitian, does not have a financial 7554
interest in the provision of goods or services to dietitians, and 7555
is not engaged in any activity related to the practice of 7556
dietetics. 7557

Each member of the board shall receive an amount fixed 7558
pursuant to division (J) of section 124.15 of the Revised Code for 7559
each day, or portion thereof, ~~he is~~ actually engaged in the 7560

discharge of ~~his~~ official duties, and shall be reimbursed for 7561
actual and necessary expenses incurred in the performance of those 7562
duties. 7563

Sec. 4759.05. The Ohio board of dietetics shall: 7564

(A) Adopt, amend, or rescind rules pursuant to Chapter 119. 7565
of the Revised Code to carry out the provisions of this chapter, 7566
including rules governing the following: 7567

(1) Selection and approval of a dietitian licensure 7568
examination offered by the commission on dietetic registration or 7569
any other examination; 7570

(2) The examination of applicants for licensure as a 7571
dietitian, to be held at least twice annually, as required under 7572
division (A) of section 4759.06 of the Revised Code; 7573

(3) Requirements for pre-professional dietetic experience of 7574
applicants for licensure as a dietitian that are at least 7575
equivalent to the requirements adopted by the commission on 7576
dietetic registration; 7577

(4) Requirements for a person holding a limited permit under 7578
division (F) of section 4759.06 of the Revised Code, including the 7579
duration of validity of a limited permit; 7580

(5) Requirements for a licensed dietitian who places a 7581
license in inactive status under division (G) of section 4759.06 7582
of the Revised Code, including a procedure for changing inactive 7583
status to active status; 7584

(6) Continuing education requirements for renewal of a 7585
license, except that the board may adopt rules to waive the 7586
requirements for a person who is unable to meet the requirements 7587
due to illness or other reasons. Rules adopted under this division 7588
shall be consistent with the continuing education requirements 7589
adopted by the commission on dietetic registration. 7590

(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 7621
licensed under section 4759.06 of the Revised Code. 7622

Sec. 4759.06. (A) The Ohio board of dietetics shall issue or 7623
renew a license to practice dietetics to an applicant who: 7624

(1) Has satisfactorily completed an application for licensure 7625
in accordance with division (A) of section 4759.05 of the Revised 7626
Code; 7627

(2) Has paid the fee required under division (A) of section 7628
4759.08 of the Revised Code; 7629

(3) Is a resident of the state or performs or plans to 7630
perform dietetic services within the state; 7631

(4) Is of good moral character; 7632

(5) Has received a baccalaureate or higher degree from an 7633
institution of higher education that is approved by the board or a 7634
regional accreditation agency that is recognized by the council on 7635
postsecondary accreditation, and has completed a program 7636
consistent with the academic standards for dietitians established 7637
by the ~~American dietetic association~~ academy of nutrition and 7638
dietetics; 7639

(6) Has successfully completed a pre-professional dietetic 7640
experience approved by the ~~American dietetic association~~ academy 7641
of nutrition and dietetics, or experience approved by the board 7642
under division (A)(3) of section 4759.05 of the Revised Code; 7643

(7) Has passed the examination approved by the board under 7644
division (A)(1) of section 4759.05 of the Revised Code; 7645

(8) Is an applicant for renewal of a license, and has 7646
fulfilled the continuing education requirements adopted under 7647
division (A)(6) of section 4759.05 of the Revised Code. 7648

(B) The board shall waive the requirements of divisions 7649

(A)(5), (6), and (7) of this section and any rules adopted under 7650
division (A)(7) of section 4759.05 of the Revised Code if the 7651
applicant presents satisfactory evidence to the board of current 7652
registration as a registered dietitian with the commission on 7653
dietetic registration. 7654

(C) The board shall waive the requirements of division (A)(7) 7655
of this section if the application for renewal is made within two 7656
years after the date of license expiration. 7657

(D) The board may waive the requirements of division (A)(5), 7658
(6), or (7) of this section or any rules adopted under division 7659
(A)(7) of section 4759.05 of the Revised Code, if the applicant 7660
presents satisfactory evidence of education, experience, or 7661
passing an examination in another state or a foreign country, that 7662
the board considers the equivalent of the requirements stated in 7663
those divisions or rules. 7664

(E) The board shall issue an initial license to practice 7665
dietetics to an applicant who meets the requirements of division 7666
(A) of this section. An initial license shall be valid from the 7667
date of issuance through the thirtieth day of June following 7668
issuance of the license. Each subsequent license shall be valid 7669
from the first day of July through the thirtieth day of June. The 7670
board shall renew the license of an applicant who is licensed to 7671
practice dietetics and who meets the continuing education 7672
requirements of division (A)(6) of section 4759.05 of the Revised 7673
Code. The renewal shall be pursuant to the standard renewal 7674
procedure of sections 4745.01 to 4745.03 of the Revised Code. 7675

(F) The board may grant a limited permit to a person who has 7676
completed the education and pre-professional requirements of 7677
divisions (A)(5) and (6) of this section and who presents evidence 7678
to the board of having applied to take the examination approved by 7679
the board under division (A)(1) of section 4759.05 of the Revised 7680
Code. A person holding a limited permit who has failed the 7681

examination shall practice only under the direct supervision of a 7682
licensed dietitian. 7683

(G) A licensed dietitian may place the license in inactive 7684
status. 7685

Sec. 4759.10. Sections 4759.01 to 4759.09 of the Revised Code 7686
do not apply to any of the following: 7687

(A) A person licensed under Chapters 4701. to 4755. of the 7688
Revised Code who is acting within the scope of the person's 7689
profession, provided that the person complies with division (B) of 7690
section 4759.02 of the Revised Code; 7691

(B) A person who is a graduate of an associate degree program 7692
approved by the ~~American dietetic association~~ academy of nutrition
and dietetics or the Ohio board of dietetics who is working as a 7693
dietetic technician under the supervision of a dietitian licensed 7694
under section 4759.06 of the Revised Code or registered by the 7695
commission on dietetic registration, except that the person is 7696
subject to division (B) of section 4759.02 of the Revised Code if 7697
the person uses a title other than "dietetic technician"; 7698
7699

(C) A person who practices dietetics related to employment in 7700
the armed forces, veteran's administration, or the public health 7701
service of the United States; 7702

(D) Persons employed by a nonprofit agency approved by the 7703
board or by a federal, state, municipal or county government, or 7704
by any other political subdivision, elementary or secondary 7705
school, or an institution of higher education approved by the 7706
board or by a regional agency recognized by the council on 7707
postsecondary accreditation, who performs only nutritional 7708
education activities and such other nutritional activities as the 7709
board of dietetics, by rule, permits, provided the person does not 7710
violate division (B) of section 4759.02 of the Revised Code; 7711

(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; 7743

(3) Characterize the documented mechanism by which a nutrient 7744
or dietary ingredient acts to maintain the structure or function 7745
of the human body; 7746

(4) Describe general well-being from the consumption of a 7747
nutrient or dietary ingredient. 7748

(J) Provided that the persons involved in presenting a 7749
general program of instruction for weight control do not violate 7750
division (B) of section 4759.02 of the Revised Code, a general 7751
program of instruction for weight control approved in writing by a 7752
licensed dietitian, a physician licensed under Chapter 4731. of 7753
the Revised Code to practice medicine or surgery or osteopathic 7754
medicine or surgery, a person licensed in another state that the 7755
board considers to have substantially equivalent licensure 7756
requirements as this state, or a registered dietitian; 7757

(K) The continued practice of dietetics at a hospital by a 7758
person employed at that same hospital to practice dietetics for 7759
the twenty years immediately prior to July 1, 1987, so long as the 7760
person works under the supervision of a dietitian licensed under 7761
section 4759.06 of the Revised Code and does not violate division 7762
(B) of section 4759.02 of the Revised Code. This division does not 7763
apply to any person who has held a license issued under this 7764
chapter to practice dietetics. As used in this division, 7765
"hospital" has the same meaning as in section 3727.01 of the 7766
Revised Code. 7767

Sec. 5111.222. (A) As used in this section, "low resource 7768
utilization resident" means a medicaid recipient residing in a 7769
nursing facility who, for purposes of calculating the nursing 7770
facility's medicaid reimbursement rate for direct care costs, is 7771
placed in either of the two lowest resource utilization groups, 7772
excluding any resource utilization group that is a default group 7773

used for residents with incomplete assessment data. 7774

(B) Except as otherwise provided by sections 5111.20 to 7775
5111.331 of the Revised Code and by division ~~(B)~~(C) of this 7776
section, the total rate that the department of job and family 7777
services shall agree to pay for a fiscal year to the provider of a 7778
nursing facility pursuant to a provider agreement shall equal the 7779
sum of all of the following: 7780

(1) The rate for direct care costs determined for the nursing 7781
facility under section 5111.231 of the Revised Code; 7782

(2) The rate for ancillary and support costs determined for 7783
the nursing facility's ancillary and support cost peer group under 7784
section 5111.24 of the Revised Code; 7785

(3) The rate for tax costs determined for the nursing 7786
facility under section 5111.242 of the Revised Code; 7787

(4) The quality incentive payment paid to the nursing 7788
facility under section 5111.244 of the Revised Code; 7789

(5) If the nursing facility qualifies as a critical access 7790
nursing facility, the critical access incentive payment paid to 7791
the nursing facility under section 5111.246 of the Revised Code; 7792

(6) The rate for capital costs determined for the nursing 7793
facility's capital costs peer group under section 5111.25 of the 7794
Revised Code. 7795

~~(B) The department shall adjust the rates otherwise 7796
determined under division (A) of this section as directed by the 7797
general assembly through the enactment of law governing medicaid 7798
payments to providers of nursing facilities, including any law 7799
that establishes factors by which the rates are to be adjusted. 7800~~

(C) The total rate determined under division (B) of this 7801
section shall not be paid for nursing facility services provided 7802
to low resource utilization residents. Instead, the total rate for 7803

nursing facility services that a nursing facility provides to low 7804
resource utilization residents shall be one hundred thirty dollars 7805
per medicaid day. 7806

(D) In addition to paying a nursing facility provider the 7807
nursing facility's total rate determined ~~for the nursing facility~~ 7808
under division ~~(A)~~(B) or (C) of this section for a fiscal year, 7809
the department shall pay the provider a quality bonus under 7810
section 5111.245 of the Revised Code for that fiscal year if the 7811
provider's nursing facility is a qualifying nursing facility, as 7812
defined in that section, for that fiscal year. The quality bonus 7813
shall not be part of the total rate. 7814

Sec. 5111.231. (A) As used in this section: 7815

(1) "Applicable calendar year" means the following: 7816

(a) For the purpose of the department of job and family 7817
services' initial determination under division (D) of this section 7818
of each peer group's cost per case-mix unit, calendar year 2003; 7819

(b) For the purpose of the department's rebasings, the 7820
calendar year the department selects. 7821

(2) "Rebasing" means a redetermination under division (D) of 7822
this section of each peer groups' cost per case-mix unit using 7823
information from cost reports for an applicable calendar year that 7824
is later than the applicable calendar year used for the previous 7825
determination of such costs. 7826

(B) The department of job and family services shall pay a 7827
provider for each of the provider's eligible nursing facilities a 7828
per resident per day rate for direct care costs determined 7829
semiannually by multiplying the cost per case-mix unit determined 7830
under division (D) of this section for the facility's peer group 7831
by the facility's semiannual case-mix score determined under 7832
section 5111.232 of the Revised Code. 7833

(C) For the purpose of determining nursing facilities' rate 7834
for direct care costs, the department shall establish three peer 7835
groups. 7836

Each nursing facility located in any of the following 7837
counties shall be placed in peer group one: Brown, Butler, 7838
Clermont, Clinton, Hamilton, and Warren. 7839

Each nursing facility located in any of the following 7840
counties shall be placed in peer group two: Ashtabula, Champaign, 7841
Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, 7842
Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, 7843
Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, 7844
Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, 7845
and Wood. 7846

Each nursing facility located in any of the following 7847
counties shall be placed in peer group three: Adams, Allen, 7848
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 7849
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 7850
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 7851
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 7852
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 7853
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 7854
Washington, Wayne, Williams, and Wyandot. 7855

(D)(1) The department shall determine a cost per case-mix 7856
unit for each peer group established under division (C) of this 7857
section. The department is not required to conduct a rebasing more 7858
than once every ten years. Except as necessary to implement the 7859
amendments made ~~by this act~~ to this section by Am. Sub. H.B. 153 7860
and Sub. H.B. 303, both of the 129th general assembly, the cost 7861
per case-mix unit determined under this division for a peer group 7862
shall be used for subsequent years until the department conducts a 7863
rebasings. To determine a peer group's cost per case-mix unit, the 7864
department shall do all of the following: 7865

(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 7927
of each peer group's rate for ancillary and support costs, 7928
calendar year 2003; 7929

(b) For the purpose of the department's rebasings, the 7930
calendar year the department selects. 7931

(2) "Rebasing" means a redetermination under division (D) of 7932
this section of each peer groups' rate for ancillary and support 7933
costs using information from cost reports for an applicable 7934
calendar year that is later than the applicable calendar year used 7935
for the previous determination of such rates. 7936

(B) The department of job and family services shall pay a 7937
provider for each of the provider's eligible nursing facilities a 7938
per resident per day rate for ancillary and support costs 7939
determined for the nursing facility's peer group under division 7940
(D) of this section. 7941

(C) For the purpose of determining nursing facilities' rate 7942
for ancillary and support costs, the department shall establish 7943
six peer groups. 7944

Each nursing facility located in any of the following 7945
counties shall be placed in peer group one or two: Brown, Butler, 7946
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 7947
located in any of those counties that has fewer than one hundred 7948
beds shall be placed in peer group one. Each nursing facility 7949
located in any of those counties that has one hundred or more beds 7950
shall be placed in peer group two. 7951

Each nursing facility located in any of the following 7952
counties shall be placed in peer group three or four: Ashtabula, 7953
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 7954
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 7955
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 7956
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 7957

Union, and Wood. Each nursing facility located in any of those 7958
counties that has fewer than one hundred beds shall be placed in 7959
peer group three. Each nursing facility located in any of those 7960
counties that has one hundred or more beds shall be placed in peer 7961
group four. 7962

Each nursing facility located in any of the following 7963
counties shall be placed in peer group five or six: Adams, Allen, 7964
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 7965
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 7966
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 7967
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 7968
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 7969
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 7970
Washington, Wayne, Williams, and Wyandot. Each nursing facility 7971
located in any of those counties that has fewer than one hundred 7972
beds shall be placed in peer group five. Each nursing facility 7973
located in any of those counties that has one hundred or more beds 7974
shall be placed in peer group six. 7975

(D)(1) The department shall determine the rate for ancillary 7976
and support costs for each peer group established under division 7977
(C) of this section. The department is not required to conduct a 7978
rebasings more than once every ten years. Except as necessary to 7979
implement the amendments made ~~by this act~~ to this section by Am. 7980
Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general 7981
assembly, the rate for ancillary and support costs determined 7982
under this division for a peer group shall be used for subsequent 7983
years until the department conducts a rebasing. To determine a 7984
peer group's rate for ancillary and support costs, the department 7985
shall do all of the following: 7986

(a) Subject to division (D)(2) of this section, determine the 7987
rate for ancillary and support costs for each nursing facility in 7988
the peer group for the applicable calendar year by using the 7989

greater of the nursing facility's actual inpatient days for the 7990
applicable calendar year or the inpatient days the nursing 7991
facility would have had for the applicable calendar year if its 7992
occupancy rate had been ninety per cent; 7993

(b) Subject to division (D)(3) of this section, identify 7994
which nursing facility in the peer group is at the twenty-fifth 7995
percentile of the rate for ancillary and support costs for the 7996
applicable calendar year determined under division (D)(1)(a) of 7997
this section; 7998

(c) Multiply the rate for ancillary and support costs 7999
determined under division (D)(1)(a) of this section for the 8000
nursing facility identified under division (D)(1)(b) of this 8001
section by the rate of inflation for the eighteen-month period 8002
beginning on the first day of July of the applicable calendar year 8003
and ending the last day of December of the calendar year 8004
immediately following the applicable calendar year using the 8005
following: 8006

(i) Until the first rebasing occurs, the consumer price index 8007
for all items for all urban consumers for the north central 8008
region, published by the United States bureau of labor statistics, 8009
as that index existed on July 1, 2005; 8010

(ii) Effective with the first rebasing and except as provided 8011
in division (D)(1)(c)(iii) of this section, the consumer price 8012
index for all items for all urban consumers for the midwest 8013
region, published by the United States bureau of labor statistics; 8014

(iii) If the United States bureau of labor statistics ceases 8015
to publish the index specified in division (D)(1)(c)(ii) of this 8016
section, the index the bureau subsequently publishes that covers 8017
urban consumers' prices for items for the region that includes 8018
this state. 8019

(d) Until the first rebasing occurs, increase the amount 8020

calculated under division (D)(1)(c) of this section by five and 8021
eight hundredths per cent. 8022

(2) For the purpose of determining a nursing facility's 8023
occupancy rate under division (D)(1)(a) of this section, the 8024
department shall include any beds that the nursing facility 8025
removes from its medicaid-certified capacity unless the nursing 8026
facility also removes the beds from its licensed bed capacity. 8027

(3) In making the identification under division (D)(1)(b) of 8028
this section, the department shall exclude both of the following: 8029

(a) Nursing facilities that participated in the medicaid 8030
program under the same provider for less than twelve months in the 8031
applicable calendar year; 8032

(b) Nursing facilities whose ancillary and support costs are 8033
more than one standard deviation from the mean desk-reviewed, 8034
actual, allowable, per diem ancillary and support cost for all 8035
nursing facilities in the nursing facility's peer group for the 8036
applicable calendar year. 8037

(4) The department shall not redetermine a peer group's rate 8038
for ancillary and support costs under this division based on 8039
additional information that it receives after the rate is 8040
determined. The department shall redetermine a peer group's rate 8041
for ancillary and support costs only if the department made an 8042
error in determining the rate based on information available to 8043
the department at the time of the original determination. 8044

Sec. 5111.242. (A) As used in this section, ~~"applicable:~~ 8045

(1) "Applicable calendar year" means the following: 8046

~~(1)(a)~~ (a) For the purpose of the department of job and family 8047
services' initial determination under this section of nursing 8048
facilities' rate for tax costs, calendar year 2003; 8049

~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent~~ 8050

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. 8112

(B) A critical access nursing facility's critical access 8113
incentive payment for a fiscal year shall equal five per cent of 8114
the portion of the nursing facility's total rate for the fiscal 8115
year that is the sum of the rates and payment identified in 8116
divisions ~~(A)~~(B)(1) to (4) and (6) of section 5111.222 of the 8117
Revised Code. 8118

Sec. 5111.25. (A) As used in this section: 8119

(1) "Applicable calendar year" means the following: 8120

(a) For the purpose of the department of job and family 8121
services' initial determination under division (D) of this section 8122
of each peer group's rate for capital costs, calendar year 2003; 8123

(b) For the purpose of the department's rebasings, the 8124
calendar year the department selects. 8125

(2) "Rebasing" means a redetermination under division (D) of 8126
this section of each peer groups' rate for capital costs using 8127
information from cost reports for an applicable calendar year that 8128
is later than the applicable calendar year used for the previous 8129
determination of such rates. 8130

(B) The department of job and family services shall pay a 8131
provider for each of the provider's eligible nursing facilities a 8132
per resident per day rate for capital costs determined for the 8133
nursing facility's peer group under division (D) of this section. 8134

(C) For the purpose of determining nursing facilities' rate 8135
for capital costs, the department shall establish six peer groups. 8136

Each nursing facility located in any of the following 8137
counties shall be placed in peer group one or two: Brown, Butler, 8138
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 8139
located in any of those counties that has fewer than one hundred 8140
beds shall be placed in peer group one. Each nursing facility 8141

located in any of those counties that has one hundred or more beds 8142
shall be placed in peer group two. 8143

Each nursing facility located in any of the following 8144
counties shall be placed in peer group three or four: Ashtabula, 8145
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 8146
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 8147
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 8148
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 8149
Union, and Wood. Each nursing facility located in any of those 8150
counties that has fewer than one hundred beds shall be placed in 8151
peer group three. Each nursing facility located in any of those 8152
counties that has one hundred or more beds shall be placed in peer 8153
group four. 8154

Each nursing facility located in any of the following 8155
counties shall be placed in peer group five or six: Adams, Allen, 8156
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 8157
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 8158
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 8159
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 8160
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 8161
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 8162
Washington, Wayne, Williams, and Wyandot. Each nursing facility 8163
located in any of those counties that has fewer than one hundred 8164
beds shall be placed in peer group five. Each nursing facility 8165
located in any of those counties that has one hundred or more beds 8166
shall be placed in peer group six. 8167

(D)(1) The department shall determine the rate for capital 8168
costs for each peer group established under division (C) of this 8169
section. The department is not required to conduct a rebasing more 8170
than once every ten years. Except as necessary to implement the 8171
amendments made ~~by this act~~ to this section by Am. Sub. H.B. 153 8172
and Sub. H.B. 303, both of the 129th general assembly, the rate 8173

for capital costs determined under this division for a peer group 8174
shall be used for subsequent years until the department conducts a 8175
rebasings. ~~A~~ To determine a peer group's rate for capital costs 8176
~~shall be,~~ the department shall do both of the following: 8177

(a) Determine the rate for capital costs ~~determined~~ for the 8178
nursing facility in the peer group that is at the twenty-fifth 8179
percentile of the rate for capital costs for the applicable 8180
calendar year; 8181

(b) Until the first rebasing occurs, increase the amount 8182
calculated under division (D)(1)(a) of this section by five and 8183
eight hundredths per cent. ~~In identifying that~~ 8184

(2) To identify the nursing facility in a peer group that is 8185
at the twenty-fifth percentile of the rate for capital costs for 8186
the applicable calendar year, the department shall do both of the 8187
following: 8188

(a) Subject to division (D)~~(2)~~(3) of this section, use the 8189
greater of each nursing facility's actual inpatient days for the 8190
applicable calendar year or the inpatient days the nursing 8191
facility would have had for the applicable calendar year if its 8192
occupancy rate had been one hundred per cent; 8193

(b) Exclude both of the following: 8194

(i) Nursing facilities that participated in the medicaid 8195
program under the same provider for less than twelve months in the 8196
applicable calendar year; 8197

(ii) Nursing facilities whose capital costs are more than one 8198
standard deviation from the mean desk-reviewed, actual, allowable, 8199
per diem capital cost for all nursing facilities in the nursing 8200
facility's peer group for the applicable calendar year. 8201

~~(2)~~(3) For the purpose of determining a nursing facility's 8202
occupancy rate under division (D)~~(1)~~(2)(a) of this section, the 8203

department shall include any beds that the nursing facility 8204
removes from its medicaid-certified capacity after June 30, 2005, 8205
unless the nursing facility also removes the beds from its 8206
licensed bed capacity. 8207

~~(3)~~(4) The department shall not redetermine a peer group's 8208
rate for capital costs under this division based on additional 8209
information that it receives after the rate is determined. The 8210
department shall redetermine a peer group's rate for capital costs 8211
only if the department made an error in determining the rate based 8212
on information available to the department at the time of the 8213
original determination. 8214

(E) Buildings shall be depreciated using the straight line 8215
method over forty years or over a different period approved by the 8216
department. Components and equipment shall be depreciated using 8217
the straight-line method over a period designated in rules adopted 8218
under section 5111.02 of the Revised Code, consistent with the 8219
guidelines of the American hospital association, or over a 8220
different period approved by the department. Any rules authorized 8221
by this division that specify useful lives of buildings, 8222
components, or equipment apply only to assets acquired on or after 8223
July 1, 1993. Depreciation for costs paid or reimbursed by any 8224
government agency shall not be included in capital costs unless 8225
that part of the payment under sections 5111.20 to 5111.331 of the 8226
Revised Code is used to reimburse the government agency. 8227

(F) The capital cost basis of nursing facility assets shall 8228
be determined in the following manner: 8229

(1) Except as provided in division (F)(3) of this section, 8230
for purposes of calculating the rates to be paid for facilities 8231
with dates of licensure on or before June 30, 1993, the capital 8232
cost basis of each asset shall be equal to the desk-reviewed, 8233
actual, allowable, capital cost basis that is listed on the 8234
facility's cost report for the calendar year preceding the fiscal 8235

year during which the rate will be paid. 8236

(2) For facilities with dates of licensure after June 30, 8237
1993, the capital cost basis shall be determined in accordance 8238
with the principles of the medicare program established under 8239
Title XVIII, except as otherwise provided in sections 5111.20 to 8240
5111.331 of the Revised Code. 8241

(3) Except as provided in division (F)(4) of this section, if 8242
a provider transfers an interest in a facility to another provider 8243
after June 30, 1993, there shall be no increase in the capital 8244
cost basis of the asset if the providers are related parties or 8245
the provider to which the interest is transferred authorizes the 8246
provider that transferred the interest to continue to operate the 8247
facility under a lease, management agreement, or other 8248
arrangement. If the previous sentence does not prohibit the 8249
adjustment of the capital cost basis under this division, the 8250
basis of the asset shall be adjusted by one-half of the change in 8251
the consumer price index for all items for all urban consumers, as 8252
published by the United States bureau of labor statistics, during 8253
the time that the transferor held the asset. 8254

(4) If a provider transfers an interest in a facility to 8255
another provider who is a related party, the capital cost basis of 8256
the asset shall be adjusted as specified in division (F)(3) of 8257
this section if all of the following conditions are met: 8258

(a) The related party is a relative of owner; 8259

(b) Except as provided in division (F)(4)(c)(ii) of this 8260
section, the provider making the transfer retains no ownership 8261
interest in the facility; 8262

(c) The department of job and family services determines that 8263
the transfer is an arm's length transaction pursuant to rules 8264
adopted under section 5111.02 of the Revised Code. The rules shall 8265
provide that a transfer is an arm's length transaction if all of 8266

the following apply: 8267

(i) Once the transfer goes into effect, the provider that 8268
made the transfer has no direct or indirect interest in the 8269
provider that acquires the facility or the facility itself, 8270
including interest as an owner, officer, director, employee, 8271
independent contractor, or consultant, but excluding interest as a 8272
creditor. 8273

(ii) The provider that made the transfer does not reacquire 8274
an interest in the facility except through the exercise of a 8275
creditor's rights in the event of a default. If the provider 8276
reacquires an interest in the facility in this manner, the 8277
department shall treat the facility as if the transfer never 8278
occurred when the department calculates its reimbursement rates 8279
for capital costs. 8280

(iii) The transfer satisfies any other criteria specified in 8281
the rules. 8282

(d) Except in the case of hardship caused by a catastrophic 8283
event, as determined by the department, or in the case of a 8284
provider making the transfer who is at least sixty-five years of 8285
age, not less than twenty years have elapsed since, for the same 8286
facility, the capital cost basis was adjusted most recently under 8287
division (F)(4) of this section or actual, allowable cost of 8288
ownership was determined most recently under division (G)(9) of 8289
this section. 8290

(G) As used in this division: 8291

"Imputed interest" means the lesser of the prime rate plus 8292
two per cent or ten per cent. 8293

"Lease expense" means lease payments in the case of an 8294
operating lease and depreciation expense and interest expense in 8295
the case of a capital lease. 8296

"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 8328
the lesser of the annual lease expense or the sum of the 8329
following: 8330

(a) The annual depreciation expense that would be calculated 8331
at the inception of the lease using the lessor's entire historical 8332
capital asset cost basis; 8333

(b) The greater of the lessor's actual annual amortization of 8334
financing costs and interest expense at the inception of the lease 8335
or the imputed interest expense calculated at the inception of the 8336
lease using seventy per cent of the lessor's historical capital 8337
asset cost basis. 8338

(4) Subject to division (B) of this section, for a lease of a 8339
facility with a date of licensure on or after May 27, 1992, that 8340
was not initially operated under a lease and has been in existence 8341
for ten years, actual, allowable capital costs shall include the 8342
lesser of the annual lease expense or the annual depreciation 8343
expense and imputed interest expense that would be calculated at 8344
the inception of the lease using the entire historical capital 8345
asset cost basis of one-half of the change in the consumer price 8346
index for all items for all urban consumers, as published by the 8347
United States bureau of labor statistics, during the time the 8348
lessor held each asset until the beginning of the lease. 8349

(5) Subject to division (B) of this section, for a new lease 8350
of a facility that was operated under a lease on May 27, 1992, 8351
actual, allowable capital costs shall include the lesser of the 8352
annual new lease expense or the annual old lease payment. If the 8353
old lease was in effect for ten years or longer, the old lease 8354
payment from the beginning of the old lease shall be adjusted by 8355
one-half of the change in the consumer price index for all items 8356
for all urban consumers, as published by the United States bureau 8357
of labor statistics, from the beginning of the old lease to the 8358
beginning of the new lease. 8359

(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 8392
include the annual lease expense, subject to the limitations 8393
specified in divisions (G)(1) to (7) of this section, if all of 8394
the following conditions are met: 8395

(a) The related party is a relative of owner; 8396

(b) If the lessor retains an ownership interest, it is, 8397
except as provided in division (G)(9)(c)(ii) of this section, in 8398
only the real property and any improvements on the real property; 8399

(c) The department of job and family services determines that 8400
the lease is an arm's length transaction pursuant to rules adopted 8401
under section 5111.02 of the Revised Code. The rules shall provide 8402
that a lease is an arm's length transaction if all of the 8403
following apply: 8404

(i) Once the lease goes into effect, the lessor has no direct 8405
or indirect interest in the lessee or, except as provided in 8406
division (G)(9)(b) of this section, the facility itself, including 8407
interest as an owner, officer, director, employee, independent 8408
contractor, or consultant, but excluding interest as a lessor. 8409

(ii) The lessor does not reacquire an interest in the 8410
facility except through the exercise of a lessor's rights in the 8411
event of a default. If the lessor reacquires an interest in the 8412
facility in this manner, the department shall treat the facility 8413
as if the lease never occurred when the department calculates its 8414
reimbursement rates for capital costs. 8415

(iii) The lease satisfies any other criteria specified in the 8416
rules. 8417

(d) Except in the case of hardship caused by a catastrophic 8418
event, as determined by the department, or in the case of a lessor 8419
who is at least sixty-five years of age, not less than twenty 8420
years have elapsed since, for the same facility, the capital cost 8421
basis was adjusted most recently under division (F)(4) of this 8422

section or actual, allowable capital costs were determined most 8423
recently under division (G)(9) of this section. 8424

(10) This division does not apply to leases of specific items 8425
of equipment. 8426

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of 8427
the Revised Code: 8428

(1) "Adult" means an individual at least eighteen years of 8429
age. 8430

(2) "Authorized representative" means the following: 8431

(a) In the case of a consumer who is a minor, the consumer's 8432
parent, custodian, or guardian; 8433

(b) In the case of a consumer who is an adult, an individual 8434
selected by the consumer pursuant to section 5111.8810 of the 8435
Revised Code to act on the consumer's behalf for purposes 8436
regarding home care attendant services. 8437

(3) "Authorizing health care professional" means a health 8438
care professional who, pursuant to section 5111.887 of the Revised 8439
Code, authorizes a home care attendant to assist a consumer with 8440
self-administration of medication, nursing tasks, or both. 8441

(4) "Consumer" means an individual to whom all of the 8442
following apply: 8443

(a) The individual is enrolled in a participating medicaid 8444
waiver component. 8445

(b) The individual has a medically determinable physical 8446
impairment to which both of the following apply: 8447

(i) It is expected to last for a continuous period of not 8448
less than twelve months. 8449

(ii) It causes the individual to require assistance with 8450
activities of daily living, self-care, and mobility, including 8451

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.	8481 8482
(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.	8483 8484
(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.	8485 8486
(15) "Minor" means an individual under eighteen years of age.	8487
(16) "Participating medicaid waiver component" means both of the following:	8488 8489
(a) The Ohio home care program created under section 5111.861 of the Revised Code;	8490 8491
(b) The Ohio transitions II aging carve-out program created under section 5111.863 of the Revised Code.	8492 8493
(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	8494 8495 8496
(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 <u>registered</u> nurse, as defined in section 4723.01 of the Revised Code.	8497 8498 8499 8500 8501
(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.	8502 8503 8504
(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 <u>of the Revised Code</u> and rules adopted under	8505 8506 8507 8508 8509 8510

section 5111.8811 of the Revised Code. Notwithstanding sections 8511
5111.881 to 5111.8811 of the Revised Code, those sections shall be 8512
implemented regarding a participating medicaid waiver component 8513
only if the secretary approves a waiver amendment for the 8514
component. 8515

Sec. 5111.981. (A) As used in this section and section 8516
5111.982 of the Revised Code: 8517

"Dual eligible individual" has the same meaning as in ~~section~~ 8518
~~1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010)~~ 8519
section 1915(h)(2)(B), 42 U.S.C. 1396n(h)(2)(B). 8520

"Medicare ~~program~~" means the program created ~~under Title~~ 8521
~~XVIII of in~~ the "Social Security Act," ~~79 Stat. 286 (1965)~~ Title 8522
XVIII, 42 U.S.C. 1395 et seq., as amended. 8523

(B) Subject to division (C) of this section, the medical 8524
assistance director of job and family services may implement a 8525
demonstration project called the integrated care delivery system 8526
to test and evaluate the integration of the care that dual 8527
eligible individuals receive under ~~the~~ medicare and medicaid 8528
~~programs~~. No provision of Title LI of the Revised Code applies to 8529
the ~~demonstration project~~ integrated care delivery system if that 8530
provision implements or incorporates a provision of federal law 8531
governing ~~the medicaid program~~ and that provision of federal law 8532
does not apply to the ~~demonstration project~~ system. 8533

(C) Before implementing the ~~demonstration project~~ integrated 8534
care delivery system under division (B) of this section, the 8535
director shall obtain the approval of the United States secretary 8536
of health and human services in the form of a federal medicaid 8537
waiver, medicaid state plan amendment, or demonstration grant. The 8538
director is required to seek the federal approval only if the 8539
director seeks to implement the ~~demonstration project~~ integrated 8540
care delivery system. The director shall implement the 8541

~~demonstration project~~ integrated care delivery system in 8542
accordance with the terms of the federal approval, including the 8543
terms regarding the duration of the ~~demonstration project~~ system. 8544

Sec. 5111.982. (A) As used in this section: 8545

"Covered skilled nursing facility services" has the same 8546
meaning as in the "Social Security Act," section 1888(e)(2)(A), 42 8547
U.S.C. 1395yy(e)(2)(A). 8548

"Current medicare fee-for-service rate" means the 8549
fee-for-service rate in effect for a covered skilled nursing 8550
facility service under medicare at the time the service is 8551
provided. 8552

"Skilled nursing facility" has the same meaning as in the 8553
"Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a). 8554

(B) Except as provided in division (C) of this section, a 8555
managed care organization shall pay a skilled nursing facility at 8556
least the current medicare fee-for-service rate, without deduction 8557
for any coinsurance, for covered skilled nursing facility services 8558
that the skilled nursing facility provides to a dual eligible 8559
individual if the managed care organization is responsible for the 8560
payment under the terms of a contract that the managed care 8561
organization, medical assistance director, and United States 8562
secretary of health and human services jointly enter into under 8563
the integrated care delivery system authorized by section 5111.981 8564
of the Revised Code. 8565

(C) A managed care organization is required to pay the rate 8566
specified in division (B) of this section for covered skilled 8567
nursing facility services only if all of the following apply: 8568

(1) The United States secretary agrees to the payment rate as 8569
part of the contract that the managed care organization, medical 8570
assistance director, and United States secretary jointly enter 8571

into under the integrated care delivery system; 8572

(2) The managed care organization receives a federal 8573
capitation payment that is an actuarially sufficient amount for 8574
the costs that the managed care organization incurs in paying the 8575
rate; 8576

(3) No state funds are used for any part of the costs that 8577
the managed care organization incurs in paying the rate; 8578

(4) The integrated care delivery system provides for dual 8579
eligible individuals to receive the covered skilled nursing 8580
facility services as part of the system. 8581

Sec. 5119.22. (A) As used in this section and section 8582
5119.221 of the Revised Code: 8583

(1) "Accommodations" means housing, daily meal preparation, 8584
laundry, housekeeping, arranging for transportation, social and 8585
recreational activities, maintenance, security, and other services 8586
that do not constitute personal care services or skilled nursing 8587
care. 8588

(2) "ADAMHS board" means a board of alcohol, drug addiction, 8589
and mental health services. 8590

(3) "Adult" means a person who is eighteen years of age or 8591
older, other than a person described in division (A)(4) of this 8592
section who is between eighteen and twenty-one years of age. 8593

(4) "Child" means a person who is under eighteen years of age 8594
or a person with a mental disability who is under twenty-one years 8595
of age. 8596

(5) "Community mental health agency" means a community mental 8597
health agency as defined in division (H) of section 5122.01 of the 8598
Revised Code. 8599

(6) "Community mental health services" means any of the 8600

services listed in section 340.09 of the Revised Code. 8601

(7) "Operator" means the person that is responsible for the 8602
administration and management of a residential facility. 8603

(8) "Personal care services" means services including, but 8604
not limited to, the following: 8605

(a) Assisting residents with activities of daily living; 8606

(b) Assisting residents with self-administration of 8607
medication in accordance with rules adopted under this section; 8608

(c) Preparing special diets, other than complex therapeutic 8609
diets, for residents pursuant to the instructions of a physician 8610
or a licensed dietitian, in accordance with rules adopted under 8611
this section. 8612

"Personal care services" does not include "skilled nursing 8613
care" as defined in section 3721.01 of the Revised Code. A 8614
facility need not provide more than one of the services listed in 8615
division (A)(8) of this section to be considered to be providing 8616
personal care services. 8617

(9) "Residential facility" means a publicly or privately 8618
operated home or facility that provides one of the following: 8619

(a) Accommodations, supervision, personal care services, and 8620
community mental health services for one or more of the following 8621
unrelated persons who are referred by or are receiving community 8622
mental health services from a community mental health agency, 8623
hospital, or practitioner: 8624

(i) Adults with mental illness; 8625

(ii) Persons of any age with severe mental disabilities; 8626

(iii) Children with serious emotional disturbances or in need 8627
of mental health services. 8628

(b) Accommodations and personal care services for only one or 8629

two unrelated adults; accommodations, supervision, and personal	8630
care services for three to sixteen unrelated adults; or	8631
accommodations, supervision, and personal care services for one or	8632
two of the following unrelated persons:	8633
(i) Persons of any age with mental illness who are referred	8634
by or are receiving community mental health services from a	8635
community mental health agency, hospital, or practitioner;	8636
(ii) Persons of any age with severe mental disabilities who	8637
are referred by or are receiving community mental health services	8638
from a community mental health agency, hospital, or practitioner.	8639
(c) Room and board for five or more of the following	8640
unrelated persons:	8641
(i) Adults with mental illness who are referred by or are	8642
receiving community mental health services from a community mental	8643
health agency, hospital, or practitioner;	8644
(ii) Adults with severe mental disabilities who are referred	8645
by or are receiving community mental health services from a	8646
community mental health agency, hospital, or practitioner.	8647
(10) "Residential facility" does not include any of the	8648
following:	8649
(a) A hospital subject to licensure under section 5119.20 of	8650
the Revised Code;	8651
(b) A residential facility licensed under section 5123.19 of	8652
the Revised Code or otherwise regulated by the department of	8653
developmental disabilities;	8654
(c) An institution or association subject to certification	8655
under section 5103.03 of the Revised Code;	8656
(d) A facility operated by a hospice care program licensed	8657
under section 3712.04 of the Revised Code that is used exclusively	8658
for care of hospice patients;	8659

(e) <u>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;</u>	8660
	8661
	8662
(f) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;	8663
	8664
(f) (g) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;	8665
	8666
(g) (h) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	8667
	8668
(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;	8669
	8670
	8671
	8672
(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;	8673
	8674
	8675
(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.	8676
	8677
	8678
	8679
(11) "Room and board" means the provision of sleeping and living space, meals or meal preparation, laundry services, housekeeping services, or any combination thereof.	8680
	8681
	8682
(12) "Supervision" means any of the following:	8683
(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;	8684
	8685
	8686
(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;	8687
	8688
	8689

(c) Assisting a resident in making or keeping an appointment.	8690
(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.	8691 8692 8693 8694 8695
(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.	8696 8697 8698 8699
(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:	8700 8701 8702 8703
(1) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;	8704 8705
(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.	8706 8707 8708 8709 8710 8711
(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.	8712 8713 8714 8715 8716 8717 8718 8719
(D)(1) Except as provided in division (D)(2) of this section,	8720

a person operating or seeking to operate a residential facility 8721
shall apply for licensure of the facility to the department of 8722
mental health. The application shall be submitted by the operator. 8723
When applying for the license, the applicant shall pay to the 8724
department the application fee specified in rules adopted under 8725
division (L) of this section. The fee is nonrefundable. 8726

The department shall send a copy of an application to the 8727
ADAMHS board serving the county in which the person operates or 8728
seeks to operate the facility. The ADAMHS board shall review the 8729
application and provide to the department any information about 8730
the applicant or the facility that the board would like the 8731
department to consider in reviewing the application. 8732

(2) A person may not apply for a license to operate a 8733
residential facility if the person is or has been the owner, 8734
operator, or manager of a residential facility for which a license 8735
to operate was revoked or for which renewal of a license was 8736
refused for any reason other than nonpayment of the license 8737
renewal fee, unless both of the following conditions are met: 8738

(a) A period of not less than two years has elapsed since the 8739
date the director of mental health issued the order revoking or 8740
refusing to renew the facility's license. 8741

(b) The director's revocation or refusal to renew the license 8742
was not based on an act or omission at the facility that violated 8743
a resident's right to be free from abuse, neglect, or 8744
exploitation. 8745

(E)(1) Any person may operate a residential facility 8746
providing accommodations and personal care services for one to 8747
five unrelated persons and licensed as a residential facility that 8748
meets the criteria specified in division (A)(9)(b) of this section 8749
as a permitted use in any residential district or zone, including 8750
any single-family residential district or zone of any political 8751

subdivision. Such facilities may be required to comply with area, 8752
height, yard, and architectural compatibility requirements that 8753
are uniformly imposed upon all single-family residences within the 8754
district or zone. 8755

(2) Any person may operate a residential facility providing 8756
accommodations and personal care services for six to sixteen 8757
persons and licensed as a residential facility that meets the 8758
criteria specified in division (A)(9)(b) of this section as a 8759
permitted use in any multiple-family residential district or zone 8760
of any political subdivision, except that a political subdivision 8761
that has enacted a zoning ordinance or resolution establishing 8762
planned-unit development districts as defined in section 519.021 8763
of the Revised Code may exclude such facilities from such 8764
districts, and a political subdivision that has enacted a zoning 8765
ordinance or resolution may regulate such facilities in 8766
multiple-family residential districts or zones as a conditionally 8767
permitted use or special exception, in either case, under 8768
reasonable and specific standards and conditions set out in the 8769
zoning ordinance or resolution to: 8770

(a) Require the architectural design and site layout of the 8771
home and the location, nature, and height of any walls, screens, 8772
and fences to be compatible with adjoining land uses and the 8773
residential character of the neighborhood; 8774

(b) Require compliance with yard, parking, and sign 8775
regulation. 8776

(3) Divisions (E)(1) and (2) of this section do not affect 8777
any right of a political subdivision to permit a person to operate 8778
a residential facility licensed under this section in a 8779
single-family residential district or zone under conditions 8780
established by the political subdivision. 8781

(4)(a) Notwithstanding divisions (E)(1) and (2) of this 8782

section and except as provided in division (E)(4)(b) of this 8783
section, a political subdivision that has enacted a zoning 8784
ordinance or resolution may limit the excessive concentration of 8785
licensed residential facilities that meet the criteria specified 8786
in division (A)(9)(b) of this section. 8787

(b) Division (E)(4)(a) of this section does not authorize a 8788
political subdivision to prevent or limit the continued existence 8789
and operation of residential facilities existing and operating on 8790
~~the effective date of this section September 10, 2012,~~ and that 8791
meet the criteria specified in division (A)(9)(b) of this section. 8792
A political subdivision may consider the existence of such 8793
facilities for the purpose of limiting the excessive concentration 8794
of such facilities that meet the criteria specified in division 8795
(A)(9)(b) of this section that are not existing and operating on 8796
~~the effective date of this section September 10, 2012.~~ 8797

(F)(1) The department of mental health shall inspect and 8798
license the operation of residential facilities. The department 8799
shall consider the past record of the facility and the applicant 8800
or licensee in arriving at its licensure decision. 8801

The department may issue full, probationary, and interim 8802
licenses. A full license shall expire two years after the date of 8803
issuance, a probationary license shall expire in a shorter period 8804
of time as specified in rules adopted by the director of mental 8805
health under division (L) of this section, and an interim license 8806
shall expire ninety days after the date of issuance. A license may 8807
be renewed in accordance with rules adopted by the director under 8808
division (L) of this section. The renewal application shall be 8809
submitted by the operator. When applying for renewal of a license, 8810
the applicant shall pay to the department the renewal fee 8811
specified in rules adopted under division (L) of this section. The 8812
fee is nonrefundable. 8813

(2) The department may issue an order suspending the 8814

admission of residents to the facility or refuse to issue or renew 8815
and may revoke a license if it finds the facility is not in 8816
compliance with rules adopted by the director pursuant to division 8817
(L) of this section or if any facility operated by the applicant 8818
or licensee has been cited for repeated violations of statutes or 8819
rules during the period of previous licenses. Proceedings 8820
initiated to deny applications for full or probationary licenses 8821
or to revoke such licenses are governed by Chapter 119. of the 8822
Revised Code. 8823

(G) The department may issue an interim license to operate a 8824
residential facility if both of the following conditions are met: 8825

(1) The department determines that the closing of or the need 8826
to remove residents from another residential facility has created 8827
an emergency situation requiring immediate removal of residents 8828
and an insufficient number of licensed beds are available. 8829

(2) The residential facility applying for an interim license 8830
meets standards established for interim licenses in rules adopted 8831
by the director under division (L) of this section. 8832

An interim license shall be valid for ninety days and may be 8833
renewed by the director no more than twice. Proceedings initiated 8834
to deny applications for or to revoke interim licenses under this 8835
division are not subject to Chapter 119. of the Revised Code. 8836

(H)(1) The department of mental health may conduct an 8837
inspection of a residential facility as follows: 8838

(a) Prior to issuance of a license for the facility; 8839

(b) Prior to renewal of the license; 8840

(c) To determine whether the facility has completed a plan of 8841
correction required pursuant to division (H)(2) of this section 8842
and corrected deficiencies to the satisfaction of the department 8843
and in compliance with this section and rules adopted pursuant to 8844

it; 8845

(d) Upon complaint by any individual or agency; 8846

(e) At any time the director considers an inspection to be 8847
necessary in order to determine whether the facility is in 8848
compliance with this section and rules adopted pursuant to this 8849
section. 8850

(2) In conducting inspections the department may conduct an 8851
on-site examination and evaluation of the residential facility and 8852
its personnel, activities, and services. The department shall have 8853
access to examine and copy all records, accounts, and any other 8854
documents relating to the operation of the residential facility, 8855
including records pertaining to residents, and shall have access 8856
to the facility in order to conduct interviews with the operator, 8857
staff, and residents. Following each inspection and review, the 8858
department shall complete a report listing any deficiencies, and 8859
including, when appropriate, a time table within which the 8860
operator shall correct the deficiencies. The department may 8861
require the operator to submit a plan of correction describing how 8862
the deficiencies will be corrected. 8863

(I) No person shall do any of the following: 8864

(1) Operate a residential facility unless the facility holds 8865
a valid license; 8866

(2) Violate any of the conditions of licensure after having 8867
been granted a license; 8868

(3) Interfere with a state or local official's inspection or 8869
investigation of a residential facility; 8870

(4) Violate any of the provisions of this section or any 8871
rules adopted pursuant to this section. 8872

(J) The following may enter a residential facility at any 8873
time: 8874

(1) Employees designated by the director of mental health;	8875
(2) Employees of an ADAMHS board under either of the following circumstances:	8876
(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;	8877
(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;	8878
(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;	8879
(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;	8880
(b) When authorized by section 340.05 of the Revised Code.	8881
(3) Employees of a community mental health agency under either of the following circumstances:	8882
(a) When the agency has a client residing in the facility;	8883
(a) When the agency has a client residing in the facility;	8884
(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract.	8885
(b) When the agency is acting as an agent of an ADAMHS board other than the board with which it is under contract.	8886
(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.	8887
(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.	8888
(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.	8889
(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.	8890
(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.	8891
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.	8892
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.	8893
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.	8894
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.	8895
(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.	8896
(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.	8897
(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.	8898
(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.	8899
(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.	8900
(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.	8901
(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	8902
(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	8903
(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	8904

establish all of the following:	8905
(1) Minimum standards for the health, safety, adequacy, and cultural competency of treatment of and services for persons in residential facilities;	8906 8907 8908
(2) Procedures for the issuance, renewal, or revocation of the licenses of residential facilities;	8909 8910
(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;	8911 8912 8913 8914
(4) The fee to be paid when applying for a new residential facility license or renewing the license;	8915 8916
(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;	8917 8918 8919 8920 8921 8922
(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;	8923 8924
(7) Measures to be taken by residential facilities relative to residents' medication;	8925 8926
(8) Requirements relating to preparation of special diets;	8927
(9) The maximum number of residents who may be served in a residential facility;	8928 8929
(10) The rights of residents of residential facilities and procedures to protect such rights;	8930 8931
(11) Procedures for obtaining an affiliation agreement approved by the board between a residential facility and a community mental health agency;	8932 8933 8934

(12) Standards and procedures under which the director may 8935
waive the requirements of any of the rules adopted. 8936

(M)(1) The department may withhold the source of any 8937
complaint reported as a violation of this section when the 8938
department determines that disclosure could be detrimental to the 8939
department's purposes or could jeopardize the investigation. The 8940
department may disclose the source of any complaint if the 8941
complainant agrees in writing to such disclosure and shall 8942
disclose the source upon order by a court of competent 8943
jurisdiction. 8944

(2) Any person who makes a complaint under division (M)(1) of 8945
this section, or any person who participates in an administrative 8946
or judicial proceeding resulting from such a complaint, is immune 8947
from civil liability and is not subject to criminal prosecution, 8948
other than for perjury, unless the person has acted in bad faith 8949
or with malicious purpose. 8950

(N)(1) The director of mental health may petition the court 8951
of common pleas of the county in which a residential facility is 8952
located for an order enjoining any person from operating a 8953
residential facility without a license or from operating a 8954
licensed facility when, in the director's judgment, there is a 8955
present danger to the health or safety of any of the occupants of 8956
the facility. The court shall have jurisdiction to grant such 8957
injunctive relief upon a showing that the respondent named in the 8958
petition is operating a facility without a license or there is a 8959
present danger to the health or safety of any residents of the 8960
facility. 8961

(2) When the court grants injunctive relief in the case of a 8962
facility operating without a license, the court shall issue, at a 8963
minimum, an order enjoining the facility from admitting new 8964
residents to the facility and an order requiring the facility to 8965
assist with the safe and orderly relocation of the facility's 8966

residents. 8967

(3) If injunctive relief is granted against a facility for 8968
operating without a license and the facility continues to operate 8969
without a license, the director shall refer the case to the 8970
attorney general for further action. 8971

(O) The director may fine a person for violating division (I) 8972
of this section. The fine shall be five hundred dollars for a 8973
first offense; for each subsequent offense, the fine shall be one 8974
thousand dollars. The director's actions in imposing a fine shall 8975
be taken in accordance with Chapter 119. of the Revised Code. 8976

Sec. 5120.55. (A) As used in this section, "licensed health 8977
professional" means any or all of the following: 8978

(1) A dentist who holds a current, valid license issued under 8979
Chapter 4715. of the Revised Code to practice dentistry; 8980

(2) A licensed practical nurse who holds a current, valid 8981
license issued under Chapter 4723. of the Revised Code that 8982
authorizes the practice of nursing as a licensed practical nurse; 8983

(3) An optometrist who holds a current, valid certificate of 8984
licensure issued under Chapter 4725. of the Revised Code that 8985
authorizes the holder to engage in the practice of optometry; 8986

(4) A physician who is authorized under Chapter 4731. of the 8987
Revised Code to practice medicine and surgery, osteopathic 8988
medicine and surgery, or ~~pediatry~~ podiatric medicine and surgery; 8989

(5) A psychologist who holds a current, valid license issued 8990
under Chapter 4732. of the Revised Code that authorizes the 8991
practice of psychology as a licensed psychologist; 8992

(6) A registered nurse who holds a current, valid license 8993
issued under Chapter 4723. of the Revised Code that authorizes the 8994
practice of nursing as a registered nurse ~~regardless of whether~~ 8995
the, including such a nurse who is also authorized to practice as 8996

an advanced practice registered nurse as defined in section 8997
4723.01 of the Revised Code. 8998

(B)(1) The department of rehabilitation and correction may 8999
establish a recruitment program under which the department, by 9000
means of a contract entered into under division (C) of this 9001
section, agrees to repay all or part of the principal and interest 9002
of a government or other educational loan incurred by a licensed 9003
health professional who agrees to provide services to inmates of 9004
correctional institutions under the department's administration. 9005

(2)(a) For a physician to be eligible to participate in the 9006
program, the physician must have attended a school that was, 9007
during the time of attendance, a medical school or osteopathic 9008
medical school in this country accredited by the liaison committee 9009
on medical education or the American osteopathic association, a 9010
college of podiatry in this country recognized as being in good 9011
standing under section 4731.53 of the Revised Code, or a medical 9012
school, osteopathic medical school, or college of podiatry located 9013
outside this country that was acknowledged by the world health 9014
organization and verified by a member state of that organization 9015
as operating within that state's jurisdiction. 9016

(b) For a nurse to be eligible to participate in the program, 9017
the nurse must have attended a school that was, during the time of 9018
attendance, a nursing school in this country accredited by the 9019
commission on collegiate nursing education or the national league 9020
for nursing accrediting commission or a nursing school located 9021
outside this country that was acknowledged by the world health 9022
organization and verified by a member state of that organization 9023
as operating within that state's jurisdiction. 9024

(c) For a dentist to be eligible to participate in the 9025
program, the dentist must have attended a school that was, during 9026
the time of attendance, a dental college that enabled the dentist 9027
to meet the requirements specified in section 4715.10 of the 9028

Revised Code to be granted a license to practice dentistry. 9029

(d) For an optometrist to be eligible to participate in the 9030
program, the optometrist must have attended a school of optometry 9031
that was, during the time of attendance, approved by the state 9032
board of optometry. 9033

(e) For a psychologist to be eligible to participate in the 9034
program, the psychologist must have attended an educational 9035
institution that, during the time of attendance, maintained a 9036
specific degree program recognized by the state board of 9037
psychology as acceptable for fulfilling the requirement of 9038
division (B)(4) of section 4732.10 of the Revised Code. 9039

(C) The department shall enter into a contract with each 9040
licensed health professional it recruits under this section. Each 9041
contract shall include at least the following terms: 9042

(1) The licensed health professional agrees to provide a 9043
specified scope of medical, osteopathic medical, podiatric, 9044
optometric, psychological, nursing, or dental services to inmates 9045
of one or more specified state correctional institutions for a 9046
specified number of hours per week for a specified number of 9047
years. 9048

(2) The department agrees to repay all or a specified portion 9049
of the principal and interest of a government or other educational 9050
loan taken by the licensed health professional for the following 9051
expenses to attend, for up to a maximum of four years, a school 9052
that qualifies the licensed health professional to participate in 9053
the program: 9054

(a) Tuition; 9055

(b) Other educational expenses for specific purposes, 9056
including fees, books, and laboratory expenses, in amounts 9057
determined to be reasonable in accordance with rules adopted under 9058
division (D) of this section; 9059

(c) Room and board, in an amount determined to be reasonable 9060
in accordance with rules adopted under division (D) of this 9061
section. 9062

(3) The licensed health professional agrees to pay the 9063
department a specified amount, which shall be no less than the 9064
amount already paid by the department pursuant to its agreement, 9065
as damages if the licensed health professional fails to complete 9066
the service obligation agreed to or fails to comply with other 9067
specified terms of the contract. The contract may vary the amount 9068
of damages based on the portion of the service obligation that 9069
remains uncompleted. 9070

(4) Other terms agreed upon by the parties. 9071

The licensed health professional's lending institution or the 9072
Ohio board of regents, may be a party to the contract. The 9073
contract may include an assignment to the department of the 9074
licensed health professional's duty to repay the principal and 9075
interest of the loan. 9076

(D) If the department elects to implement the recruitment 9077
program, it shall adopt rules in accordance with Chapter 119. of 9078
the Revised Code that establish all of the following: 9079

(1) Criteria for designating institutions for which licensed 9080
health professionals will be recruited; 9081

(2) Criteria for selecting licensed health professionals for 9082
participation in the program; 9083

(3) Criteria for determining the portion of a loan which the 9084
department will agree to repay; 9085

(4) Criteria for determining reasonable amounts of the 9086
expenses described in divisions (C)(2)(b) and (c) of this section; 9087

(5) Procedures for monitoring compliance by a licensed health 9088
professional with the terms of the contract the licensed health 9089

professional enters into under this section; 9090

(6) Any other criteria or procedures necessary to implement 9091
the program. 9092

Section 2. That existing sections 109.57, 1337.11, 2133.01, 9093
2305.113, 2305.234, 2317.54, 2711.22, 3701.881, 3701.92, 3701.923, 9094
3701.924, 3701.925, 3701.926, 3701.927, 3701.928, 3701.929, 9095
3712.01, 3712.03, 3712.09, 3712.99, 3721.01, 3793.11, 3795.01, 9096
3963.01, 4503.44, 4719.01, 4723.01, 4723.03, 4723.06, 4723.063, 9097
4723.07, 4723.08, 4723.09, 4723.17, 4723.171, 4723.24, 4723.271, 9098
4723.28, 4723.32, 4723.34, 4723.35, 4723.41, 4723.42, 4723.43, 9099
4723.431, 4723.44, 4723.48, 4723.482, 4723.485, 4723.487, 4723.50, 9100
4723.61, 4723.64, 4723.65, 4723.651, 4723.652, 4723.66, 4723.67, 9101
4723.68, 4723.69, 4723.71, 4723.72, 4723.73, 4723.74, 4723.75, 9102
4723.751, 4723.76, 4723.77, 4723.79, 4723.83, 4723.84, 4723.87, 9103
4723.88, 4723.99, 4752.02, 4759.01, 4759.03, 4759.05, 4759.06, 9104
4759.10, 5111.222, 5111.231, 5111.24, 5111.242, 5111.246, 5111.25, 9105
5111.88, 5111.981, 5119.22, and 5120.55 and sections 4723.483, 9106
4723.62, 4723.621, 4723.63, and 4723.78 of the Revised Code are 9107
hereby repealed. 9108

Section 3. That Section 3.19 of Am. Sub. H.B. 95 of the 125th 9109
General Assembly be amended to read as follows: 9110

Sec. 3.19. Section 4723.063 of the Revised Code is hereby 9111
repealed, effective December 31, ~~2013~~ 2023. 9112

Section 4. That existing Section 3.19 of Am. Sub. H.B. 95 of 9113
the 125th General Assembly is hereby repealed. 9114

Section 5. Sections 1 to 4 of this act take effect ninety 9115
days after the effective date of this act, except as follows: 9116

(A) Section 3793.11 of the Revised Code, as amended by this 9117

act, takes effect at the earliest time permitted by law; 9118

(B) Sections 5111.22, 5111.231, 5111.24, 5111.242, 5111.246, 9119
and 5111.25 of the Revised Code, as amended by this act, take 9120
effect July 1, 2013. 9121

Section 6. That the version of section 109.57 of the Revised 9122
Code that is scheduled to take effect January 1, 2014, be amended 9123
to read as follows: 9124

Sec. 109.57. (A)(1) The superintendent of the bureau of 9125
criminal identification and investigation shall procure from 9126
wherever procurable and file for record photographs, pictures, 9127
descriptions, fingerprints, measurements, and other information 9128
that may be pertinent of all persons who have been convicted of 9129
committing within this state a felony, any crime constituting a 9130
misdemeanor on the first offense and a felony on subsequent 9131
offenses, or any misdemeanor described in division (A)(1)(a), 9132
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, of 9133
all children under eighteen years of age who have been adjudicated 9134
delinquent children for committing within this state an act that 9135
would be a felony or an offense of violence if committed by an 9136
adult or who have been convicted of or pleaded guilty to 9137
committing within this state a felony or an offense of violence, 9138
and of all well-known and habitual criminals. The person in charge 9139
of any county, multicounty, municipal, municipal-county, or 9140
multicounty-municipal jail or workhouse, community-based 9141
correctional facility, halfway house, alternative residential 9142
facility, or state correctional institution and the person in 9143
charge of any state institution having custody of a person 9144
suspected of having committed a felony, any crime constituting a 9145
misdemeanor on the first offense and a felony on subsequent 9146
offenses, or any misdemeanor described in division (A)(1)(a), 9147
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code or 9148

having custody of a child under eighteen years of age with respect 9149
to whom there is probable cause to believe that the child may have 9150
committed an act that would be a felony or an offense of violence 9151
if committed by an adult shall furnish such material to the 9152
superintendent of the bureau. Fingerprints, photographs, or other 9153
descriptive information of a child who is under eighteen years of 9154
age, has not been arrested or otherwise taken into custody for 9155
committing an act that would be a felony or an offense of violence 9156
who is not in any other category of child specified in this 9157
division, if committed by an adult, has not been adjudicated a 9158
delinquent child for committing an act that would be a felony or 9159
an offense of violence if committed by an adult, has not been 9160
convicted of or pleaded guilty to committing a felony or an 9161
offense of violence, and is not a child with respect to whom there 9162
is probable cause to believe that the child may have committed an 9163
act that would be a felony or an offense of violence if committed 9164
by an adult shall not be procured by the superintendent or 9165
furnished by any person in charge of any county, multicounty, 9166
municipal, municipal-county, or multicounty-municipal jail or 9167
workhouse, community-based correctional facility, halfway house, 9168
alternative residential facility, or state correctional 9169
institution, except as authorized in section 2151.313 of the 9170
Revised Code. 9171

(2) Every clerk of a court of record in this state, other 9172
than the supreme court or a court of appeals, shall send to the 9173
superintendent of the bureau a weekly report containing a summary 9174
of each case involving a felony, involving any crime constituting 9175
a misdemeanor on the first offense and a felony on subsequent 9176
offenses, involving a misdemeanor described in division (A)(1)(a), 9177
(A)(5)(a), or (A)(7)(a) of section 109.572 of the Revised Code, or 9178
involving an adjudication in a case in which a child under 9179
eighteen years of age was alleged to be a delinquent child for 9180
committing an act that would be a felony or an offense of violence 9181

if committed by an adult. The clerk of the court of common pleas 9182
shall include in the report and summary the clerk sends under this 9183
division all information described in divisions (A)(2)(a) to (f) 9184
of this section regarding a case before the court of appeals that 9185
is served by that clerk. The summary shall be written on the 9186
standard forms furnished by the superintendent pursuant to 9187
division (B) of this section and shall include the following 9188
information: 9189

(a) The incident tracking number contained on the standard 9190
forms furnished by the superintendent pursuant to division (B) of 9191
this section; 9192

(b) The style and number of the case; 9193

(c) The date of arrest, offense, summons, or arraignment; 9194

(d) The date that the person was convicted of or pleaded 9195
guilty to the offense, adjudicated a delinquent child for 9196
committing the act that would be a felony or an offense of 9197
violence if committed by an adult, found not guilty of the 9198
offense, or found not to be a delinquent child for committing an 9199
act that would be a felony or an offense of violence if committed 9200
by an adult, the date of an entry dismissing the charge, an entry 9201
declaring a mistrial of the offense in which the person is 9202
discharged, an entry finding that the person or child is not 9203
competent to stand trial, or an entry of a nolle prosequi, or the 9204
date of any other determination that constitutes final resolution 9205
of the case; 9206

(e) A statement of the original charge with the section of 9207
the Revised Code that was alleged to be violated; 9208

(f) If the person or child was convicted, pleaded guilty, or 9209
was adjudicated a delinquent child, the sentence or terms of 9210
probation imposed or any other disposition of the offender or the 9211
delinquent child. 9212

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 9245
convicted of or plead guilty to a sexually oriented offense or a 9246
child-victim oriented offense and with respect to all other duties 9247
imposed on the bureau under that chapter. 9248

(5) The bureau shall perform centralized recordkeeping 9249
functions for criminal history records and services in this state 9250
for purposes of the national crime prevention and privacy compact 9251
set forth in section 109.571 of the Revised Code and is the 9252
criminal history record repository as defined in that section for 9253
purposes of that compact. The superintendent or the 9254
superintendent's designee is the compact officer for purposes of 9255
that compact and shall carry out the responsibilities of the 9256
compact officer specified in that compact. 9257

(B) The superintendent shall prepare and furnish to every 9258
county, multicounty, municipal, municipal-county, or 9259
multicounty-municipal jail or workhouse, community-based 9260
correctional facility, halfway house, alternative residential 9261
facility, or state correctional institution and to every clerk of 9262
a court in this state specified in division (A)(2) of this section 9263
standard forms for reporting the information required under 9264
division (A) of this section. The standard forms that the 9265
superintendent prepares pursuant to this division may be in a 9266
tangible format, in an electronic format, or in both tangible 9267
formats and electronic formats. 9268

(C)(1) The superintendent may operate a center for 9269
electronic, automated, or other data processing for the storage 9270
and retrieval of information, data, and statistics pertaining to 9271
criminals and to children under eighteen years of age who are 9272
adjudicated delinquent children for committing an act that would 9273
be a felony or an offense of violence if committed by an adult, 9274
criminal activity, crime prevention, law enforcement, and criminal 9275
justice, and may establish and operate a statewide communications 9276

network to be known as the Ohio law enforcement gateway to gather 9277
and disseminate information, data, and statistics for the use of 9278
law enforcement agencies and for other uses specified in this 9279
division. The superintendent may gather, store, retrieve, and 9280
disseminate information, data, and statistics that pertain to 9281
children who are under eighteen years of age and that are gathered 9282
pursuant to sections 109.57 to 109.61 of the Revised Code together 9283
with information, data, and statistics that pertain to adults and 9284
that are gathered pursuant to those sections. 9285

(2) The superintendent or the superintendent's designee shall 9286
gather information of the nature described in division (C)(1) of 9287
this section that pertains to the offense and delinquency history 9288
of a person who has been convicted of, pleaded guilty to, or been 9289
adjudicated a delinquent child for committing a sexually oriented 9290
offense or a child-victim oriented offense for inclusion in the 9291
state registry of sex offenders and child-victim offenders 9292
maintained pursuant to division (A)(1) of section 2950.13 of the 9293
Revised Code and in the internet database operated pursuant to 9294
division (A)(13) of that section and for possible inclusion in the 9295
internet database operated pursuant to division (A)(11) of that 9296
section. 9297

(3) In addition to any other authorized use of information, 9298
data, and statistics of the nature described in division (C)(1) of 9299
this section, the superintendent or the superintendent's designee 9300
may provide and exchange the information, data, and statistics 9301
pursuant to the national crime prevention and privacy compact as 9302
described in division (A)(5) of this section. 9303

(4) The attorney general may adopt rules under Chapter 119. 9304
of the Revised Code establishing guidelines for the operation of 9305
and participation in the Ohio law enforcement gateway. The rules 9306
may include criteria for granting and restricting access to 9307
information gathered and disseminated through the Ohio law 9308

enforcement gateway. The attorney general shall permit the state 9309
medical board and board of nursing to access and view, but not 9310
alter, information gathered and disseminated through the Ohio law 9311
enforcement gateway. 9312

The attorney general may appoint a steering committee to 9313
advise the attorney general in the operation of the Ohio law 9314
enforcement gateway that is comprised of persons who are 9315
representatives of the criminal justice agencies in this state 9316
that use the Ohio law enforcement gateway and is chaired by the 9317
superintendent or the superintendent's designee. 9318

(D)(1) The following are not public records under section 9319
149.43 of the Revised Code: 9320

(a) Information and materials furnished to the superintendent 9321
pursuant to division (A) of this section; 9322

(b) Information, data, and statistics gathered or 9323
disseminated through the Ohio law enforcement gateway pursuant to 9324
division (C)(1) of this section; 9325

(c) Information and materials furnished to any board or 9326
person under division (F) or (G) of this section. 9327

(2) The superintendent or the superintendent's designee shall 9328
gather and retain information so furnished under division (A) of 9329
this section that pertains to the offense and delinquency history 9330
of a person who has been convicted of, pleaded guilty to, or been 9331
adjudicated a delinquent child for committing a sexually oriented 9332
offense or a child-victim oriented offense for the purposes 9333
described in division (C)(2) of this section. 9334

(E)(1) The attorney general shall adopt rules, in accordance 9335
with Chapter 119. of the Revised Code and subject to division 9336
(E)(2) of this section, setting forth the procedure by which a 9337
person may receive or release information gathered by the 9338
superintendent pursuant to division (A) of this section. A 9339

reasonable fee may be charged for this service. If a temporary 9340
employment service submits a request for a determination of 9341
whether a person the service plans to refer to an employment 9342
position has been convicted of or pleaded guilty to an offense 9343
listed or described in division (A)(1), (2), or (3) of section 9344
109.572 of the Revised Code, the request shall be treated as a 9345
single request and only one fee shall be charged. 9346

(2) Except as otherwise provided in this division, a rule 9347
adopted under division (E)(1) of this section may provide only for 9348
the release of information gathered pursuant to division (A) of 9349
this section that relates to the conviction of a person, or a 9350
person's plea of guilty to, a criminal offense. The superintendent 9351
shall not release, and the attorney general shall not adopt any 9352
rule under division (E)(1) of this section that permits the 9353
release of, any information gathered pursuant to division (A) of 9354
this section that relates to an adjudication of a child as a 9355
delinquent child, or that relates to a criminal conviction of a 9356
person under eighteen years of age if the person's case was 9357
transferred back to a juvenile court under division (B)(2) or (3) 9358
of section 2152.121 of the Revised Code and the juvenile court 9359
imposed a disposition or serious youthful offender disposition 9360
upon the person under either division, unless either of the 9361
following applies with respect to the adjudication or conviction: 9362

(a) The adjudication or conviction was for a violation of 9363
section 2903.01 or 2903.02 of the Revised Code. 9364

(b) The adjudication or conviction was for a sexually 9365
oriented offense, the juvenile court was required to classify the 9366
child a juvenile offender registrant for that offense under 9367
section 2152.82, 2152.83, or 2152.86 of the Revised Code, and that 9368
classification has not been removed. 9369

(F)(1) As used in division (F)(2) of this section, "head 9370
start agency" means an entity in this state that has been approved 9371

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 9405
bureau of investigation any criminal records it has pertaining to 9406
that individual. The superintendent or the superintendent's 9407
designee also may request criminal history records from other 9408
states or the federal government pursuant to the national crime 9409
prevention and privacy compact set forth in section 109.571 of the 9410
Revised Code. Within thirty days of the date that the 9411
superintendent receives a request, subject to division (E)(2) of 9412
this section, the superintendent shall send to the board, entity, 9413
or person a report of any information that the superintendent 9414
determines exists, including information contained in records that 9415
have been sealed under section 2953.32 of the Revised Code, and, 9416
within thirty days of its receipt, subject to division (E)(2) of 9417
this section, shall send the board, entity, or person a report of 9418
any information received from the federal bureau of investigation, 9419
other than information the dissemination of which is prohibited by 9420
federal law. 9421

(b) When a board of education or a registered private 9422
provider is required to receive information under this section as 9423
a prerequisite to employment of an individual pursuant to division 9424
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 9425
may accept a certified copy of records that were issued by the 9426
bureau of criminal identification and investigation and that are 9427
presented by an individual applying for employment with the 9428
district in lieu of requesting that information itself. In such a 9429
case, the board shall accept the certified copy issued by the 9430
bureau in order to make a photocopy of it for that individual's 9431
employment application documents and shall return the certified 9432
copy to the individual. In a case of that nature, a district or 9433
provider only shall accept a certified copy of records of that 9434
nature within one year after the date of their issuance by the 9435
bureau. 9436

(c) Notwithstanding division (F)(2)(a) of this section, in 9437
the case of a request under section 3319.39, 3319.391, or 3327.10 9438
of the Revised Code only for criminal records maintained by the 9439
federal bureau of investigation, the superintendent shall not 9440
determine whether any information gathered under division (A) of 9441
this section exists on the person for whom the request is made. 9442

(3) The state board of education may request, with respect to 9443
any individual who has applied for employment after October 2, 9444
1989, in any position with the state board or the department of 9445
education, any information that a school district board of 9446
education is authorized to request under division (F)(2) of this 9447
section, and the superintendent of the bureau shall proceed as if 9448
the request has been received from a school district board of 9449
education under division (F)(2) of this section. 9450

(4) When the superintendent of the bureau receives a request 9451
for information under section 3319.291 of the Revised Code, the 9452
superintendent shall proceed as if the request has been received 9453
from a school district board of education and shall comply with 9454
divisions (F)(2)(a) and (c) of this section. 9455

(5) When a recipient of a classroom reading improvement grant 9456
paid under section 3301.86 of the Revised Code requests, with 9457
respect to any individual who applies to participate in providing 9458
any program or service funded in whole or in part by the grant, 9459
the information that a school district board of education is 9460
authorized to request under division (F)(2)(a) of this section, 9461
the superintendent of the bureau shall proceed as if the request 9462
has been received from a school district board of education under 9463
division (F)(2)(a) of this section. 9464

(G) In addition to or in conjunction with any request that is 9465
required to be made under section 3701.881, 3712.09, or 3721.121 9466
of the Revised Code with respect to an individual who has applied 9467
for employment in a position that involves providing direct care 9468

to an older adult or adult resident, the chief administrator of a 9469
home health agency, hospice care program, home licensed under 9470
Chapter 3721. of the Revised Code, or adult day-care program 9471
operated pursuant to rules adopted under section 3721.04 of the 9472
Revised Code may request that the superintendent of the bureau 9473
investigate and determine, with respect to any individual who has 9474
applied after January 27, 1997, for employment in a position that 9475
does not involve providing direct care to an older adult or adult 9476
resident, whether the bureau has any information gathered under 9477
division (A) of this section that pertains to that individual. 9478

In addition to or in conjunction with any request that is 9479
required to be made under section 173.27 of the Revised Code with 9480
respect to an individual who has applied for employment in a 9481
position that involves providing ombudsperson services to 9482
residents of long-term care facilities or recipients of 9483
community-based long-term care services, the state long-term care 9484
ombudsperson, ombudsperson's designee, or director of health may 9485
request that the superintendent investigate and determine, with 9486
respect to any individual who has applied for employment in a 9487
position that does not involve providing such ombudsperson 9488
services, whether the bureau has any information gathered under 9489
division (A) of this section that pertains to that applicant. 9490

In addition to or in conjunction with any request that is 9491
required to be made under section 173.394 of the Revised Code with 9492
respect to an individual who has applied for employment in a 9493
position that involves providing direct care to an individual, the 9494
chief administrator of a community-based long-term care agency may 9495
request that the superintendent investigate and determine, with 9496
respect to any individual who has applied for employment in a 9497
position that does not involve providing direct care, whether the 9498
bureau has any information gathered under division (A) of this 9499
section that pertains to that applicant. 9500

In addition to or in conjunction with any request that is 9501
required to be made under section 3712.09 of the Revised Code with 9502
respect to an individual who has applied for employment in a 9503
position that involves providing direct care to a pediatric 9504
respite care patient, the chief administrator of a pediatric 9505
respite care program may request that the superintendent of the 9506
bureau investigate and determine, with respect to any individual 9507
who has applied for employment in a position that does not involve 9508
providing direct care to a pediatric respite care patient, whether 9509
the bureau has any information gathered under division (A) of this 9510
section that pertains to that individual. 9511

On receipt of a request under this division, the 9512
superintendent shall determine whether that information exists 9513
and, on request of the individual requesting information, shall 9514
also request from the federal bureau of investigation any criminal 9515
records it has pertaining to the applicant. The superintendent or 9516
the superintendent's designee also may request criminal history 9517
records from other states or the federal government pursuant to 9518
the national crime prevention and privacy compact set forth in 9519
section 109.571 of the Revised Code. Within thirty days of the 9520
date a request is received, subject to division (E)(2) of this 9521
section, the superintendent shall send to the requester a report 9522
of any information determined to exist, including information 9523
contained in records that have been sealed under section 2953.32 9524
of the Revised Code, and, within thirty days of its receipt, shall 9525
send the requester a report of any information received from the 9526
federal bureau of investigation, other than information the 9527
dissemination of which is prohibited by federal law. 9528

(H) Information obtained by a government entity or person 9529
under this section is confidential and shall not be released or 9530
disseminated. 9531

(I) The superintendent may charge a reasonable fee for 9532

providing information or criminal records under division (F)(2) or 9533
(G) of this section. 9534

(J) As used in this section: 9535

(1) "Pediatric respite care program" and "pediatric care 9536
patient" have the same meanings as in section 3712.01 of the 9537
Revised Code. 9538

(2) "Sexually oriented offense" and "child-victim oriented 9539
offense" have the same meanings as in section 2950.01 of the 9540
Revised Code. 9541

~~(2)~~(3) "Registered private provider" means a nonpublic school 9542
or entity registered with the superintendent of public instruction 9543
under section 3310.41 of the Revised Code to participate in the 9544
autism scholarship program or section 3310.58 of the Revised Code 9545
to participate in the Jon Peterson special needs scholarship 9546
program. 9547

Section 7. That the existing version of section 109.57 of the 9548
Revised Code that is scheduled to take effect January 1, 2014, is 9549
hereby repealed. 9550

Section 7A. Sections 5 and 6 of this act take effect January 9551
1, 2014. 9552

Section 8. The provisions of this act regarding the licensure 9553
of pediatric respite care programs, as provided in the amendment 9554
and enactment of sections 3712.01, 3712.03, 3712.031, 3712.041, 9555
3712.051, 3712.061 3712.09, and 3712.99 of the Revised Code, shall 9556
be known as "Sarah's Law." 9557

Section 9. In the case of an application pending on the 9558
effective date of this section for a license to maintain methadone 9559
treatment, the requirement of division (C)(6) of section 3793.11 9560

of the Revised Code, as amended by this act, shall be applied by 9561
the Department of Alcohol and Drug Addiction Services in 9562
determining whether to issue the license. The Department may waive 9563
the requirement pursuant to division (D) of section 3793.11 of the 9564
Revised Code, as amended by this act. 9565

Section 10. (A) Notwithstanding the provisions of section 9566
4723.482 of the Revised Code specifying that the course of study 9567
in advanced pharmacology and related topics that must be completed 9568
as a condition of eligibility to receive a certificate to 9569
prescribe from the Board of Nursing is to consist of planned 9570
classroom and clinical instruction, the Board may accept 9571
instruction completed in another form, including instruction 9572
obtained through an internet-based program, as fulfillment of all 9573
or part of the requirement of division (B)(5)(d) of that section 9574
to complete instruction specific to schedule II controlled 9575
substances. To be accepted by the Board, the instruction obtained 9576
in another form shall meet all other standards established in 9577
rules adopted under section 4723.50 of the Revised Code regarding 9578
the required instruction specific to schedule II controlled 9579
substances. 9580

(B) Division (A) of this section applies only in the case of 9581
an applicant who completed the required course of study prior to 9582
the effective date of this section and does not alter the 9583
requirement of division (B)(1) of section 4723.482 of the Revised 9584
Code that the course of study be completed not longer than three 9585
years before an application for a certificate to prescribe is 9586
filed. 9587

Section 11. (A) As used in this section, "intermediate care 9588
facility for individuals with intellectual disabilities" and 9589
"ICF/IID" mean an intermediate care facility for the mentally 9590

retarded as defined in the "Social Security Act," section 1905(d), 9591
42 U.S.C. 1396d(d). 9592

(B) The Department of Developmental Disabilities may conduct 9593
or contract with another entity to conduct, for the first quarter 9594
of calendar year 2013, assessments of all residents of each 9595
ICF/IID, regardless of payment source, who are in the ICF/IID, or 9596
on hospital or therapeutic leave from the ICF/IID, on the day or 9597
days that the assessments are conducted at the ICF/IID. 9598

(C) If assessments are conducted under division (B) of this 9599
section, the Department shall do all of the following: 9600

(1) In conducting the assessments, provide for both of the 9601
following: 9602

(a) The resident assessment instrument prescribed in rules 9603
authorized by division (B) of section 5111.232 of the Revised Code 9604
to be used in accordance with an inter-rater reliable process; 9605

(b) The assessments to be performed by individuals who meet 9606
the requirements to be qualified intellectual disability 9607
professionals, as specified in 42 C.F.R. 483.430(a). 9608

(2) Use the data obtained from the assessments to determine 9609
each ICF/IID's case-mix score for the first quarter of calendar 9610
year 2013; 9611

(3) For the purpose of determining each ICF/IID's fiscal year 9612
2014 Medicaid rates for direct care costs and subject to divisions 9613
(C)(8) and (E) of this section, do both of the following: 9614

(a) In determining costs per case-mix units and maximum costs 9615
per case-mix units for the purpose of division (B) of section 9616
5111.23 of the Revised Code, use each ICF/IID's case-mix score 9617
determined under division (C)(2) of this section in place of the 9618
ICF/IID's average case-mix score for calendar year 2012; 9619

(b) Instead of determining quarterly Medicaid rates for the 9620

direct care costs of each ICF/IID pursuant to division (D) of 9621
section 5111.23 of the Revised Code, determine, as follows, one 9622
Medicaid rate for the direct care costs of each ICF/IID to be paid 9623
for all of fiscal year 2014: 9624

(i) Multiply the ICF/IID's case-mix score determined under 9625
division (C)(2) of this section by the lesser of the cost per 9626
case-mix unit determined for the ICF/IID pursuant to division 9627
(C)(3)(a) of this section or the maximum cost per case-mix unit 9628
determined for the ICF/IID's peer group pursuant to division 9629
(C)(3)(a) of this section; 9630

(ii) Adjust the product determined under division 9631
(C)(3)(b)(i) of this section by the inflation rate estimated in 9632
accordance with division (B)(3) of section 5111.23 of the Revised 9633
Code. 9634

(4) For the purpose of determining each ICF/IID's fiscal year 9635
2015 Medicaid rates for direct care costs and subject to division 9636
(C)(8) of this section, use the following when determining, 9637
pursuant to the second paragraph of division (C) of section 9638
5111.232 of the Revised Code, each ICF/IID's annual average 9639
case-mix score for calendar year 2013: 9640

(a) For the first quarter of calendar year 2013, the 9641
ICF/IID's case-mix score determined under division (C)(2) of this 9642
section; 9643

(b) For the last three quarters of calendar year 2013 and 9644
except as provided in division (D) of section 5111.232 of the 9645
Revised Code, the ICF/IID's case-mix scores determined by using 9646
the data the ICF/IID provider compiles in accordance with the 9647
first paragraph of division (C) of section 5111.232 of the Revised 9648
Code. 9649

(5) Notify each ICF/IID provider that the provider is 9650
permitted but not required to compile assessment data for the 9651

first quarter of calendar year 2013 pursuant to the first 9652
paragraph of division (C) of section 5111.232 of the Revised Code; 9653

(6) After the assessments of all of an ICF/IID's residents 9654
are completed but not later than April 30, 2013, provide, or have 9655
the entity (if any) with which the Department contracts pursuant 9656
to division (B) of this section provide, the results of the 9657
assessments to the ICF/IID provider; 9658

(7) Conduct, in accordance with division (C)(8) of this 9659
section, a reconsideration for any ICF/IID provider who does both 9660
of the following: 9661

(a) Submits a written request for the reconsideration to the 9662
Department not later than fifteen days after the provider receives 9663
the assessments' results pursuant to division (C)(6) of this 9664
section; 9665

(b) Includes in the request all of the following: 9666

(i) A detailed explanation of the items in the assessments' 9667
results that the provider disputes; 9668

(ii) Copies of relevant supporting documentation from 9669
specific resident records; 9670

(iii) The provider's proposed resolution of the disputes. 9671

(8) When conducting a reconsideration required by division 9672
(C)(7) of this section, do both of the following: 9673

(a) Consider all of the following: 9674

(i) The historic results of the resident assessments 9675
performed pursuant to the first paragraph of division (C) of 9676
section 5111.232 of the Revised Code by the ICF/IID provider who 9677
requested the reconsideration; 9678

(ii) All of the materials the provider includes in the 9679
reconsideration request; 9680

(iii) All other matters the Department determines necessary for consideration.	9681 9682
(b) Issue a written decision regarding the reconsideration not later than the sooner of the following:	9683 9684
(i) Thirty days after the Department receives the reconsideration request;	9685 9686
(ii) June 1, 2013.	9687
(D) The Department's decision regarding a reconsideration required by division (C)(7) of this section is final and not subject to further appeal.	9688 9689 9690
(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.	9691 9692 9693 9694 9695 9696
(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.	9697 9698 9699 9700 9701
(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.	9702 9703 9704 9705 9706
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	9707 9708 9709 9710

this act. This act neither delays nor accelerates those other 9711
effective dates, and the earlier amendments take effect according 9712
to the acts in which they appear. 9713

Section 13. Section 109.57 of the Revised Code is presented 9714
in this act as a composite of the section as amended by both Am. 9715
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly. 9716
The version of section 109.57 of the Revised Code that takes 9717
effect on January 1, 2014, is presented in this act as a composite 9718
of the section as amended by Am. Sub. H.B. 487, Am. Sub. S.B. 316, 9719
and Am. Sub. S.B. 337, all of the 129th General Assembly. The 9720
General Assembly, applying the principle stated in division (B) of 9721
section 1.52 of the Revised Code that amendments are to be 9722
harmonized if reasonably capable of simultaneous operation, finds 9723
that the composites are the resulting versions of the sections in 9724
effect prior to the effective date of the sections as presented in 9725
this act. 9726

Section 14. This act is hereby declared to be an emergency 9727
measure necessary for the immediate preservation of the public 9728
peace, health, and safety. The reason for such necessity is that 9729
the certain reforms included in the provisions of this act are 9730
immediately needed to ensure the efficient regulation of nursing 9731
services in this state, to create a safe environment for the youth 9732
of this state while also fulfilling the need to deliver effective 9733
addiction services to others, and to establish appropriate systems 9734
for conducting assessments of residents of facilities providing 9735
needed care to individuals in this state with intellectual 9736
disabilities. Therefore, this act shall go into immediate effect. 9737