

As Reported by the House Health and Aging Committee

**129th General Assembly
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H. B. No. 367

Representative Maag

**Cosponsors: Representatives Grossman, Murray, Fende, Antonio, Duffey,
Hackett, Sears**

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A B I L L

To amend sections 109.57, 1337.11, 2133.01, 2317.54, 1
3701.881, 3712.01, 3712.03, 3712.09, 3721.01, 2
3795.01, 3963.01, 4719.01, 4752.02, 5119.70, and 3
5119.71 and to enact sections 3712.031, 3712.041, 4
3712.051, and 3712.061 of the Revised Code 5
regarding licensure of pediatric respite care 6
programs. 7

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

Section 1. That sections 109.57, 1337.11, 2133.01, 2317.54, 8
3701.881, 3712.01, 3712.03, 3712.09, 3721.01, 3795.01, 3963.01, 9
4719.01, 4752.02, 5119.70, and 5119.71 be amended and sections 10
3712.031, 3712.041, 3712.051, and 3712.061 of the Revised Code be 11
enacted to read as follows: 12

Sec. 109.57. (A)(1) The superintendent of the bureau of 13
criminal identification and investigation shall procure from 14
wherever procurable and file for record photographs, pictures, 15
descriptions, fingerprints, measurements, and other information 16
that may be pertinent of all persons who have been convicted of 17
committing within this state a felony, any crime constituting a 18

misdemeanor on the first offense and a felony on subsequent 19
offenses, or any misdemeanor described in division (A)(1)(a), 20
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 21
of all children under eighteen years of age who have been 22
adjudicated delinquent children for committing within this state 23
an act that would be a felony or an offense of violence if 24
committed by an adult or who have been convicted of or pleaded 25
guilty to committing within this state a felony or an offense of 26
violence, and of all well-known and habitual criminals. The person 27
in charge of any county, multicounty, municipal, municipal-county, 28
or multicounty-municipal jail or workhouse, community-based 29
correctional facility, halfway house, alternative residential 30
facility, or state correctional institution and the person in 31
charge of any state institution having custody of a person 32
suspected of having committed a felony, any crime constituting a 33
misdemeanor on the first offense and a felony on subsequent 34
offenses, or any misdemeanor described in division (A)(1)(a), 35
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 36
having custody of a child under eighteen years of age with respect 37
to whom there is probable cause to believe that the child may have 38
committed an act that would be a felony or an offense of violence 39
if committed by an adult shall furnish such material to the 40
superintendent of the bureau. Fingerprints, photographs, or other 41
descriptive information of a child who is under eighteen years of 42
age, has not been arrested or otherwise taken into custody for 43
committing an act that would be a felony or an offense of violence 44
who is not in any other category of child specified in this 45
division, if committed by an adult, has not been adjudicated a 46
delinquent child for committing an act that would be a felony or 47
an offense of violence if committed by an adult, has not been 48
convicted of or pleaded guilty to committing a felony or an 49
offense of violence, and is not a child with respect to whom there 50
is probable cause to believe that the child may have committed an 51

act that would be a felony or an offense of violence if committed 52
by an adult shall not be procured by the superintendent or 53
furnished by any person in charge of any county, multicounty, 54
municipal, municipal-county, or multicounty-municipal jail or 55
workhouse, community-based correctional facility, halfway house, 56
alternative residential facility, or state correctional 57
institution, except as authorized in section 2151.313 of the 58
Revised Code. 59

(2) Every clerk of a court of record in this state, other 60
than the supreme court or a court of appeals, shall send to the 61
superintendent of the bureau a weekly report containing a summary 62
of each case involving a felony, involving any crime constituting 63
a misdemeanor on the first offense and a felony on subsequent 64
offenses, involving a misdemeanor described in division (A)(1)(a), 65
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 66
or involving an adjudication in a case in which a child under 67
eighteen years of age was alleged to be a delinquent child for 68
committing an act that would be a felony or an offense of violence 69
if committed by an adult. The clerk of the court of common pleas 70
shall include in the report and summary the clerk sends under this 71
division all information described in divisions (A)(2)(a) to (f) 72
of this section regarding a case before the court of appeals that 73
is served by that clerk. The summary shall be written on the 74
standard forms furnished by the superintendent pursuant to 75
division (B) of this section and shall include the following 76
information: 77

(a) The incident tracking number contained on the standard 78
forms furnished by the superintendent pursuant to division (B) of 79
this section; 80

(b) The style and number of the case; 81

(c) The date of arrest, offense, summons, or arraignment; 82

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

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

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

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

(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or a misdemeanor described in division (A)(1)(a), (A)(8)(a), or (A)(10)(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 115
that would be a felony or an offense of violence if committed by 116
an adult. The superintendent also shall file for record the 117
fingerprint impressions of all persons confined in a county, 118
multicounty, municipal, municipal-county, or multicounty-municipal 119
jail or workhouse, community-based correctional facility, halfway 120
house, alternative residential facility, or state correctional 121
institution for the violation of state laws and of all children 122
under eighteen years of age who are confined in a county, 123
multicounty, municipal, municipal-county, or multicounty-municipal 124
jail or workhouse, community-based correctional facility, halfway 125
house, alternative residential facility, or state correctional 126
institution or in any facility for delinquent children for 127
committing an act that would be a felony or an offense of violence 128
if committed by an adult, and any other information that the 129
superintendent may receive from law enforcement officials of the 130
state and its political subdivisions. 131

(4) The superintendent shall carry out Chapter 2950. of the 132
Revised Code with respect to the registration of persons who are 133
convicted of or plead guilty to a sexually oriented offense or a 134
child-victim oriented offense and with respect to all other duties 135
imposed on the bureau under that chapter. 136

(5) The bureau shall perform centralized recordkeeping 137
functions for criminal history records and services in this state 138
for purposes of the national crime prevention and privacy compact 139
set forth in section 109.571 of the Revised Code and is the 140
criminal history record repository as defined in that section for 141
purposes of that compact. The superintendent or the 142
superintendent's designee is the compact officer for purposes of 143
that compact and shall carry out the responsibilities of the 144
compact officer specified in that compact. 145

(B) The superintendent shall prepare and furnish to every 146

county, multicounty, municipal, municipal-county, or 147
multicounty-municipal jail or workhouse, community-based 148
correctional facility, halfway house, alternative residential 149
facility, or state correctional institution and to every clerk of 150
a court in this state specified in division (A)(2) of this section 151
standard forms for reporting the information required under 152
division (A) of this section. The standard forms that the 153
superintendent prepares pursuant to this division may be in a 154
tangible format, in an electronic format, or in both tangible 155
formats and electronic formats. 156

(C)(1) The superintendent may operate a center for 157
electronic, automated, or other data processing for the storage 158
and retrieval of information, data, and statistics pertaining to 159
criminals and to children under eighteen years of age who are 160
adjudicated delinquent children for committing an act that would 161
be a felony or an offense of violence if committed by an adult, 162
criminal activity, crime prevention, law enforcement, and criminal 163
justice, and may establish and operate a statewide communications 164
network to be known as the Ohio law enforcement gateway to gather 165
and disseminate information, data, and statistics for the use of 166
law enforcement agencies and for other uses specified in this 167
division. The superintendent may gather, store, retrieve, and 168
disseminate information, data, and statistics that pertain to 169
children who are under eighteen years of age and that are gathered 170
pursuant to sections 109.57 to 109.61 of the Revised Code together 171
with information, data, and statistics that pertain to adults and 172
that are gathered pursuant to those sections. 173

(2) The superintendent or the superintendent's designee shall 174
gather information of the nature described in division (C)(1) of 175
this section that pertains to the offense and delinquency history 176
of a person who has been convicted of, pleaded guilty to, or been 177
adjudicated a delinquent child for committing a sexually oriented 178

offense or a child-victim oriented offense for inclusion in the 179
state registry of sex offenders and child-victim offenders 180
maintained pursuant to division (A)(1) of section 2950.13 of the 181
Revised Code and in the internet database operated pursuant to 182
division (A)(13) of that section and for possible inclusion in the 183
internet database operated pursuant to division (A)(11) of that 184
section. 185

(3) In addition to any other authorized use of information, 186
data, and statistics of the nature described in division (C)(1) of 187
this section, the superintendent or the superintendent's designee 188
may provide and exchange the information, data, and statistics 189
pursuant to the national crime prevention and privacy compact as 190
described in division (A)(5) of this section. 191

(4) The attorney general may adopt rules under Chapter 119. 192
of the Revised Code establishing guidelines for the operation of 193
and participation in the Ohio law enforcement gateway. The rules 194
may include criteria for granting and restricting access to 195
information gathered and disseminated through the Ohio law 196
enforcement gateway. The attorney general shall permit the state 197
medical board and board of nursing to access and view, but not 198
alter, information gathered and disseminated through the Ohio law 199
enforcement gateway. 200

The attorney general may appoint a steering committee to 201
advise the attorney general in the operation of the Ohio law 202
enforcement gateway that is comprised of persons who are 203
representatives of the criminal justice agencies in this state 204
that use the Ohio law enforcement gateway and is chaired by the 205
superintendent or the superintendent's designee. 206

(D)(1) The following are not public records under section 207
149.43 of the Revised Code: 208

(a) Information and materials furnished to the superintendent 209

pursuant to division (A) of this section;	210
(b) Information, data, and statistics gathered or disseminated through the Ohio law enforcement gateway pursuant to division (C)(1) of this section;	211 212 213
(c) Information and materials furnished to any board or person under division (F) or (G) of this section.	214 215
(2) The superintendent or the superintendent's designee shall gather and retain information so furnished under division (A) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for the purposes described in division (C)(2) of this section.	216 217 218 219 220 221 222
(E) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed in division (A)(1), (3), (4), (5), or (6) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.	223 224 225 226 227 228 229 230 231 232 233
(F)(1) As used in division (F)(2) of this section, "head start agency" means an entity in this state that has been approved to be an agency for purposes of subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, as amended.	234 235 236 237 238
(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,	239 240

3301.541, division (C) of section 3310.58, or section 3319.39, 241
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 242
5126.28, 5126.281, or 5153.111 of the Revised Code or that is made 243
under section 3314.41, 3319.392, 3326.25, or 3328.20 of the 244
Revised Code, the board of education of any school district; the 245
director of developmental disabilities; any county board of 246
developmental disabilities; any entity under contract with a 247
county board of developmental disabilities; the chief 248
administrator of any chartered nonpublic school; the chief 249
administrator of a registered private provider that is not also a 250
chartered nonpublic school; the chief administrator of any home 251
health agency; the chief administrator of or person operating any 252
child day-care center, type A family day-care home, or type B 253
family day-care home licensed or certified under Chapter 5104. of 254
the Revised Code; the administrator of any type C family day-care 255
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 256
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 257
general assembly; the chief administrator of any head start 258
agency; the executive director of a public children services 259
agency; a private company described in section 3314.41, 3319.392, 260
3326.25, or 3328.20 of the Revised Code; or an employer described 261
in division (J)(2) of section 3327.10 of the Revised Code may 262
request that the superintendent of the bureau investigate and 263
determine, with respect to any individual who has applied for 264
employment in any position after October 2, 1989, or any 265
individual wishing to apply for employment with a board of 266
education may request, with regard to the individual, whether the 267
bureau has any information gathered under division (A) of this 268
section that pertains to that individual. On receipt of the 269
request, the superintendent shall determine whether that 270
information exists and, upon request of the person, board, or 271
entity requesting information, also shall request from the federal 272
bureau of investigation any criminal records it has pertaining to 273

that individual. The superintendent or the superintendent's 274
designee also may request criminal history records from other 275
states or the federal government pursuant to the national crime 276
prevention and privacy compact set forth in section 109.571 of the 277
Revised Code. Within thirty days of the date that the 278
superintendent receives a request, the superintendent shall send 279
to the board, entity, or person a report of any information that 280
the superintendent determines exists, including information 281
contained in records that have been sealed under section 2953.32 282
of the Revised Code, and, within thirty days of its receipt, shall 283
send the board, entity, or person a report of any information 284
received from the federal bureau of investigation, other than 285
information the dissemination of which is prohibited by federal 286
law. 287

(b) When a board of education or a registered private 288
provider is required to receive information under this section as 289
a prerequisite to employment of an individual pursuant to division 290
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 291
may accept a certified copy of records that were issued by the 292
bureau of criminal identification and investigation and that are 293
presented by an individual applying for employment with the 294
district in lieu of requesting that information itself. In such a 295
case, the board shall accept the certified copy issued by the 296
bureau in order to make a photocopy of it for that individual's 297
employment application documents and shall return the certified 298
copy to the individual. In a case of that nature, a district or 299
provider only shall accept a certified copy of records of that 300
nature within one year after the date of their issuance by the 301
bureau. 302

(c) Notwithstanding division (F)(2)(a) of this section, in 303
the case of a request under section 3319.39, 3319.391, or 3327.10 304
of the Revised Code only for criminal records maintained by the 305

federal bureau of investigation, the superintendent shall not 306
determine whether any information gathered under division (A) of 307
this section exists on the person for whom the request is made. 308

(3) The state board of education may request, with respect to 309
any individual who has applied for employment after October 2, 310
1989, in any position with the state board or the department of 311
education, any information that a school district board of 312
education is authorized to request under division (F)(2) of this 313
section, and the superintendent of the bureau shall proceed as if 314
the request has been received from a school district board of 315
education under division (F)(2) of this section. 316

(4) When the superintendent of the bureau receives a request 317
for information under section 3319.291 of the Revised Code, the 318
superintendent shall proceed as if the request has been received 319
from a school district board of education and shall comply with 320
divisions (F)(2)(a) and (c) of this section. 321

(5) When a recipient of a classroom reading improvement grant 322
paid under section 3301.86 of the Revised Code requests, with 323
respect to any individual who applies to participate in providing 324
any program or service funded in whole or in part by the grant, 325
the information that a school district board of education is 326
authorized to request under division (F)(2)(a) of this section, 327
the superintendent of the bureau shall proceed as if the request 328
has been received from a school district board of education under 329
division (F)(2)(a) of this section. 330

(G) In addition to or in conjunction with any request that is 331
required to be made under section 3701.881, 3712.09, 3721.121, 332
5119.693, or 5119.85 of the Revised Code with respect to an 333
individual who has applied for employment in a position that 334
involves providing direct care to an older adult or adult 335
resident, the chief administrator of a home health agency, hospice 336
care program, home licensed under Chapter 3721. of the Revised 337

Code, adult day-care program operated pursuant to rules adopted 338
under section 3721.04 of the Revised Code, adult foster home, or 339
adult care facility may request that the superintendent of the 340
bureau investigate and determine, with respect to any individual 341
who has applied after January 27, 1997, for employment in a 342
position that does not involve providing direct care to an older 343
adult or adult resident, whether the bureau has any information 344
gathered under division (A) of this section that pertains to that 345
individual. 346

In addition to or in conjunction with any request that is 347
required to be made under section 173.27 of the Revised Code with 348
respect to an individual who has applied for employment in a 349
position that involves providing ombudsperson services to 350
residents of long-term care facilities or recipients of 351
community-based long-term care services, the state long-term care 352
ombudsperson, ombudsperson's designee, or director of health may 353
request that the superintendent investigate and determine, with 354
respect to any individual who has applied for employment in a 355
position that does not involve providing such ombudsperson 356
services, whether the bureau has any information gathered under 357
division (A) of this section that pertains to that applicant. 358

In addition to or in conjunction with any request that is 359
required to be made under section 173.394 of the Revised Code with 360
respect to an individual who has applied for employment in a 361
position that involves providing direct care to an individual, the 362
chief administrator of a community-based long-term care agency may 363
request that the superintendent investigate and determine, with 364
respect to any individual who has applied for employment in a 365
position that does not involve providing direct care, whether the 366
bureau has any information gathered under division (A) of this 367
section that pertains to that applicant. 368

In addition to or in conjunction with any request that is 369

required to be made under section 3712.09 of the Revised Code with 370
respect to an individual who has applied for employment in a 371
position that involves providing direct care to a pediatric 372
respite care patient, the chief administrator of a pediatric 373
respite care program may request that the superintendent of the 374
bureau investigate and determine, with respect to any individual 375
who has applied for employment in a position that does not involve 376
providing direct care to a pediatric respite care patient, whether 377
the bureau has any information gathered under division (A) of this 378
section that pertains to that individual. 379

On receipt of a request under this division, the 380
superintendent shall determine whether that information exists 381
and, on request of the individual requesting information, shall 382
also request from the federal bureau of investigation any criminal 383
records it has pertaining to the applicant. The superintendent or 384
the superintendent's designee also may request criminal history 385
records from other states or the federal government pursuant to 386
the national crime prevention and privacy compact set forth in 387
section 109.571 of the Revised Code. Within thirty days of the 388
date a request is received, the superintendent shall send to the 389
requester a report of any information determined to exist, 390
including information contained in records that have been sealed 391
under section 2953.32 of the Revised Code, and, within thirty days 392
of its receipt, shall send the requester a report of any 393
information received from the federal bureau of investigation, 394
other than information the dissemination of which is prohibited by 395
federal law. 396

(H) Information obtained by a government entity or person 397
under this section is confidential and shall not be released or 398
disseminated. 399

(I) The superintendent may charge a reasonable fee for 400
providing information or criminal records under division (F)(2) or 401

(G) of this section.	402
(J) As used in this section:	403
(1) <u>"Pediatric respite care program" and "pediatric respite care patient" have the same meanings as in section 3712.01 of the Revised Code.</u>	404 405 406
(2) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	407 408 409
(2) (3) "Registered private provider" means a nonpublic school or entity registered with the superintendent of public instruction under section 3310.41 of the Revised Code to participate in the autism scholarship program or section 3310.58 of the Revised Code to participate in the Jon Peterson special needs scholarship program.	410 411 412 413 414 415
Sec. 1337.11. As used in sections 1337.11 to 1337.17 of the Revised Code:	416 417
(A) "Adult" means a person who is eighteen years of age or older.	418 419
(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.	420 421 422 423 424
(C) "Comfort care" means any of the following:	425
(1) Nutrition when administered to diminish the pain or discomfort of a principal, but not to postpone death;	426 427
(2) Hydration when administered to diminish the pain or discomfort of a principal, but not to postpone death;	428 429
(3) Any other medical or nursing procedure, treatment,	430

intervention, or other measure that is taken to diminish the pain 431
or discomfort of a principal, but not to postpone death. 432

(D) "Consulting physician" means a physician who, in 433
conjunction with the attending physician of a principal, makes one 434
or more determinations that are required to be made by the 435
attending physician, or to be made by the attending physician and 436
one other physician, by an applicable provision of sections 437
1337.11 to 1337.17 of the Revised Code, to a reasonable degree of 438
medical certainty and in accordance with reasonable medical 439
standards. 440

(E) "Declaration for mental health treatment" has the same 441
meaning as in section 2135.01 of the Revised Code. 442

(F) "Guardian" means a person appointed by a probate court 443
pursuant to Chapter 2111. of the Revised Code to have the care and 444
management of the person of an incompetent. 445

(G) "Health care" means any care, treatment, service, or 446
procedure to maintain, diagnose, or treat an individual's physical 447
or mental condition or physical or mental health. 448

(H) "Health care decision" means informed consent, refusal to 449
give informed consent, or withdrawal of informed consent to health 450
care. 451

(I) "Health care facility" means any of the following: 452

(1) A hospital; 453

(2) A hospice care program, pediatric respite care program, 454
or other institution that specializes in comfort care of patients 455
in a terminal condition or in a permanently unconscious state; 456

(3) A nursing home; 457

(4) A home health agency; 458

(5) An intermediate care facility for the mentally retarded; 459

(6) A regulated community mental health organization.	460
(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.	461 462 463 464 465 466
(K) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.	467 468
(L) "Hospice care program" has and " <u>pediatric respite care program</u> " <u>have</u> the same meaning <u>meanings</u> as in section 3712.01 of the Revised Code.	469 470 471
(M) "Hospital" has the same meanings as in sections 3701.01, 3727.01, and 5122.01 of the Revised Code.	472 473
(N) "Hydration" means fluids that are artificially or technologically administered.	474 475
(O) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.	476 477
(P) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.	478 479
(Q) "Life-sustaining treatment" means any medical procedure, treatment, intervention, or other measure that, when administered to a principal, will serve principally to prolong the process of dying.	480 481 482 483
(R) "Medical claim" has the same meaning as in section 2305.113 of the Revised Code.	484 485
(S) "Mental health treatment" has the same meaning as in section 2135.01 of the Revised Code.	486 487
(T) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.	488 489

(U) "Nutrition" means sustenance that is artificially or technologically administered.	490 491
(V) "Permanently unconscious state" means a state of permanent unconsciousness in a principal that, to a reasonable degree of medical certainty as determined in accordance with reasonable medical standards by the principal's attending physician and one other physician who has examined the principal, is characterized by both of the following:	492 493 494 495 496 497
(1) Irreversible unawareness of one's being and environment.	498
(2) Total loss of cerebral cortical functioning, resulting in the principal having no capacity to experience pain or suffering.	499 500
(W) "Person" has the same meaning as in section 1.59 of the Revised Code and additionally includes political subdivisions and governmental agencies, boards, commissions, departments, institutions, offices, and other instrumentalities.	501 502 503 504
(X) "Physician" means a person who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.	505 506 507
(Y) "Political subdivision" and "state" have the same meanings as in section 2744.01 of the Revised Code.	508 509
(Z) "Professional disciplinary action" means action taken by the board or other entity that regulates the professional conduct of health care personnel, including the state medical board and the board of nursing.	510 511 512 513
(AA) "Regulated community mental health organization" means a residential facility as defined and licensed under section 5119.22 of the Revised Code or a community mental health agency as defined in section 5122.01 of the Revised Code.	514 515 516 517
(BB) "Terminal condition" means an irreversible, incurable, and untreatable condition caused by disease, illness, or injury	518 519

from which, to a reasonable degree of medical certainty as 520
determined in accordance with reasonable medical standards by a 521
principal's attending physician and one other physician who has 522
examined the principal, both of the following apply: 523

(1) There can be no recovery. 524

(2) Death is likely to occur within a relatively short time 525
if life-sustaining treatment is not administered. 526

(CC) "Tort action" means a civil action for damages for 527
injury, death, or loss to person or property, other than a civil 528
action for damages for a breach of contract or another agreement 529
between persons. 530

Sec. 2133.01. Unless the context otherwise requires, as used 531
in sections 2133.01 to 2133.15 of the Revised Code: 532

(A) "Adult" means an individual who is eighteen years of age 533
or older. 534

(B) "Attending physician" means the physician to whom a 535
declarant or other patient, or the family of a declarant or other 536
patient, has assigned primary responsibility for the treatment or 537
care of the declarant or other patient, or, if the responsibility 538
has not been assigned, the physician who has accepted that 539
responsibility. 540

(C) "Comfort care" means any of the following: 541

(1) Nutrition when administered to diminish the pain or 542
discomfort of a declarant or other patient, but not to postpone 543
the declarant's or other patient's death; 544

(2) Hydration when administered to diminish the pain or 545
discomfort of a declarant or other patient, but not to postpone 546
the declarant's or other patient's death; 547

(3) Any other medical or nursing procedure, treatment, 548

intervention, or other measure that is taken to diminish the pain 549
or discomfort of a declarant or other patient, but not to postpone 550
the declarant's or other patient's death. 551

(D) "Consulting physician" means a physician who, in 552
conjunction with the attending physician of a declarant or other 553
patient, makes one or more determinations that are required to be 554
made by the attending physician, or to be made by the attending 555
physician and one other physician, by an applicable provision of 556
this chapter, to a reasonable degree of medical certainty and in 557
accordance with reasonable medical standards. 558

(E) "Declarant" means any adult who has executed a 559
declaration in accordance with section 2133.02 of the Revised 560
Code. 561

(F) "Declaration" means a written document executed in 562
accordance with section 2133.02 of the Revised Code. 563

(G) "Durable power of attorney for health care" means a 564
document created pursuant to sections 1337.11 to 1337.17 of the 565
Revised Code. 566

(H) "Guardian" means a person appointed by a probate court 567
pursuant to Chapter 2111. of the Revised Code to have the care and 568
management of the person of an incompetent. 569

(I) "Health care facility" means any of the following: 570

(1) A hospital; 571

(2) A hospice care program, pediatric respite care program, 572
or other institution that specializes in comfort care of patients 573
in a terminal condition or in a permanently unconscious state; 574

(3) A nursing home or residential care facility, as defined 575
in section 3721.01 of the Revised Code; 576

(4) A home health agency and any residential facility where a 577
person is receiving care under the direction of a home health 578

agency;	579
(5) An intermediate care facility for the mentally retarded.	580
(J) "Health care personnel" means physicians, nurses,	581
physician assistants, emergency medical technicians-basic,	582
emergency medical technicians-intermediate, emergency medical	583
technicians-paramedic, medical technicians, dietitians, other	584
authorized persons acting under the direction of an attending	585
physician, and administrators of health care facilities.	586
(K) "Home health agency" has the same meaning as in section	587
3701.881 of the Revised Code.	588
(L) "Hospice care program" has and " <u>pediatric respite care</u>	589
<u>program</u> " have the same meaning <u>meanings</u> as in section 3712.01 of	590
the Revised Code.	591
(M) "Hospital" has the same meanings as in sections 3701.01,	592
3727.01, and 5122.01 of the Revised Code.	593
(N) "Hydration" means fluids that are artificially or	594
technologically administered.	595
(O) "Incompetent" has the same meaning as in section 2111.01	596
of the Revised Code.	597
(P) "Intermediate care facility for the mentally retarded"	598
has the same meaning as in section 5111.20 of the Revised Code.	599
(Q) "Life-sustaining treatment" means any medical procedure,	600
treatment, intervention, or other measure that, when administered	601
to a qualified patient or other patient, will serve principally to	602
prolong the process of dying.	603
(R) "Nurse" means a person who is licensed to practice	604
nursing as a registered nurse or to practice practical nursing as	605
a licensed practical nurse pursuant to Chapter 4723. of the	606
Revised Code.	607
(S) "Nursing home" has the same meaning as in section 3721.01	608

of the Revised Code. 609

(T) "Nutrition" means sustenance that is artificially or 610
technologically administered. 611

(U) "Permanently unconscious state" means a state of 612
permanent unconsciousness in a declarant or other patient that, to 613
a reasonable degree of medical certainty as determined in 614
accordance with reasonable medical standards by the declarant's or 615
other patient's attending physician and one other physician who 616
has examined the declarant or other patient, is characterized by 617
both of the following: 618

(1) Irreversible unawareness of one's being and environment. 619

(2) Total loss of cerebral cortical functioning, resulting in 620
the declarant or other patient having no capacity to experience 621
pain or suffering. 622

(V) "Person" has the same meaning as in section 1.59 of the 623
Revised Code and additionally includes political subdivisions and 624
governmental agencies, boards, commissions, departments, 625
institutions, offices, and other instrumentalities. 626

(W) "Physician" means a person who is authorized under 627
Chapter 4731. of the Revised Code to practice medicine and surgery 628
or osteopathic medicine and surgery. 629

(X) "Political subdivision" and "state" have the same 630
meanings as in section 2744.01 of the Revised Code. 631

(Y) "Professional disciplinary action" means action taken by 632
the board or other entity that regulates the professional conduct 633
of health care personnel, including the state medical board and 634
the board of nursing. 635

(Z) "Qualified patient" means an adult who has executed a 636
declaration and has been determined to be in a terminal condition 637
or in a permanently unconscious state. 638

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

(1) There can be no recovery.

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

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

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

Written consent to a surgical or medical procedure or course of procedures shall, to the extent that it fulfills all the requirements in divisions (A), (B), and (C) of this section, be presumed to be valid and effective, in the absence of proof by a preponderance of the evidence that the person who sought such consent was not acting in good faith, or that the execution of the consent was induced by fraudulent misrepresentation of material facts, or that the person executing the consent was not able to

communicate effectively in spoken and written English or any other 670
language in which the consent is written. Except as herein 671
provided, no evidence shall be admissible to impeach, modify, or 672
limit the authorization for performance of the procedure or 673
procedures set forth in such written consent. 674

(A) The consent sets forth in general terms the nature and 675
purpose of the procedure or procedures, and what the procedures 676
are expected to accomplish, together with the reasonably known 677
risks, and, except in emergency situations, sets forth the names 678
of the physicians who shall perform the intended surgical 679
procedures. 680

(B) The person making the consent acknowledges that such 681
disclosure of information has been made and that all questions 682
asked about the procedure or procedures have been answered in a 683
satisfactory manner. 684

(C) The consent is signed by the patient for whom the 685
procedure is to be performed, or, if the patient for any reason 686
including, but not limited to, competence, minority, or the fact 687
that, at the latest time that the consent is needed, the patient 688
is under the influence of alcohol, hallucinogens, or drugs, lacks 689
legal capacity to consent, by a person who has legal authority to 690
consent on behalf of such patient in such circumstances, including 691
either of the following: 692

(1) The parent, whether the parent is an adult or a minor, of 693
the parent's minor child; 694

(2) An adult whom the parent of the minor child has given 695
written authorization to consent to a surgical or medical 696
procedure or course of procedures for the parent's minor child. 697

Any use of a consent form that fulfills the requirements 698
stated in divisions (A), (B), and (C) of this section has no 699
effect on the common law rights and liabilities, including the 700

right of a physician to obtain the oral or implied consent of a 701
patient to a medical procedure, that may exist as between 702
physicians and patients on July 28, 1975. 703

As used in this section the term "hospital" has the same 704
meaning as in section 2305.113 of the Revised Code; "home health 705
agency" has the same meaning as in section 5101.61 of the Revised 706
Code; "ambulatory surgical facility" has the meaning as in 707
division (A) of section 3702.30 of the Revised Code; and "hospice 708
care program" ~~has~~ and "pediatric respite care program" have the 709
same ~~meaning~~ meanings as in section 3712.01 of the Revised Code. 710
The provisions of this division apply to hospitals, doctors of 711
medicine, doctors of osteopathic medicine, and doctors of 712
podiatric medicine. 713

Sec. 3701.881. (A) As used in this section: 714

(1) "Applicant" means both of the following: 715

(a) A person who is under final consideration for appointment 716
to or employment with a home health agency in a position as a 717
person responsible for the care, custody, or control of a child; 718

(b) A person who is under final consideration for employment 719
with a home health agency in a full-time, part-time, or temporary 720
position that involves providing direct care to an older adult. 721
With regard to persons providing direct care to older adults, 722
"applicant" does not include a person who provides direct care as 723
a volunteer without receiving or expecting to receive any form of 724
remuneration other than reimbursement for actual expenses. 725

(2) "Criminal records check" and "older adult" have the same 726
meanings as in section 109.572 of the Revised Code. 727

(3) "Home health agency" means a person or government entity, 728
other than a nursing home, residential care facility, ~~or~~ hospice 729
care program, or pediatric respite care program, that has the 730

primary function of providing any of the following services to a	731
patient at a place of residence used as the patient's home:	732
(a) Skilled nursing care;	733
(b) Physical therapy;	734
(c) Speech-language pathology;	735
(d) Occupational therapy;	736
(e) Medical social services;	737
(f) Home health aide services.	738
(4) "Home health aide services" means any of the following	739
services provided by an individual employed with or contracted for	740
by a home health agency:	741
(a) Hands-on bathing or assistance with a tub bath or shower;	742
(b) Assistance with dressing, ambulation, and toileting;	743
(c) Catheter care but not insertion;	744
(d) Meal preparation and feeding.	745
(5) "Hospice care program" has and " <u>pediatric respite care</u>	746
<u>program</u> " <u>have</u> the same meaning <u>meanings</u> as in section 3712.01 of	747
the Revised Code.	748
(6) "Medical social services" means services provided by a	749
social worker under the direction of a patient's attending	750
physician.	751
(7) "Minor drug possession offense" has the same meaning as	752
in section 2925.01 of the Revised Code.	753
(8) "Nursing home," "residential care facility," and "skilled	754
nursing care" have the same meanings as in section 3721.01 of the	755
Revised Code.	756
(9) "Occupational therapy" has the same meaning as in section	757
4755.04 of the Revised Code.	758

(10) "Physical therapy" has the same meaning as in section 759
4755.40 of the Revised Code. 760

(11) "Social worker" means a person licensed under Chapter 761
4757. of the Revised Code to practice as a social worker or 762
independent social worker. 763

(12) "Speech-language pathology" has the same meaning as in 764
section 4753.01 of the Revised Code. 765

(B)(1) Except as provided in division (I) of this section, 766
the chief administrator of a home health agency shall request the 767
superintendent of the bureau of criminal identification and 768
investigation to conduct a criminal records check with respect to 769
each applicant. If the position may involve both responsibility 770
for the care, custody, or control of a child and provision of 771
direct care to an older adult, the chief administrator shall 772
request that the superintendent conduct a single criminal records 773
check for the applicant. If an applicant for whom a criminal 774
records check request is required under this division does not 775
present proof of having been a resident of this state for the 776
five-year period immediately prior to the date upon which the 777
criminal records check is requested or does not provide evidence 778
that within that five-year period the superintendent has requested 779
information about the applicant from the federal bureau of 780
investigation in a criminal records check, the chief administrator 781
shall request that the superintendent obtain information from the 782
federal bureau of investigation as a part of the criminal records 783
check for the applicant. Even if an applicant for whom a criminal 784
records check request is required under this division presents 785
proof that the applicant has been a resident of this state for 786
that five-year period, the chief administrator may request that 787
the superintendent include information from the federal bureau of 788
investigation in the criminal records check. 789

(2) Any person required by division (B)(1) of this section to 790

request a criminal records check shall provide to each applicant 791
for whom a criminal records check request is required under that 792
division a copy of the form prescribed pursuant to division (C)(1) 793
of section 109.572 of the Revised Code and a standard impression 794
sheet prescribed pursuant to division (C)(2) of section 109.572 of 795
the Revised Code, obtain the completed form and impression sheet 796
from each applicant, and forward the completed form and impression 797
sheet to the superintendent of the bureau of criminal 798
identification and investigation at the time the chief 799
administrator requests a criminal records check pursuant to 800
division (B)(1) of this section. 801

(3) An applicant who receives pursuant to division (B)(2) of 802
this section a copy of the form prescribed pursuant to division 803
(C)(1) of section 109.572 of the Revised Code and a copy of an 804
impression sheet prescribed pursuant to division (C)(2) of that 805
section and who is requested to complete the form and provide a 806
set of fingerprint impressions shall complete the form or provide 807
all the information necessary to complete the form and shall 808
provide the impression sheets with the impressions of the 809
applicant's fingerprints. If an applicant, upon request, fails to 810
provide the information necessary to complete the form or fails to 811
provide fingerprint impressions, the home health agency shall not 812
employ that applicant for any position for which a criminal 813
records check is required by division (B)(1) of this section. 814

(C)(1) Except as provided in rules adopted by the department 815
of health in accordance with division (F) of this section and 816
subject to division (C)(3) of this section, no home health agency 817
shall employ a person as a person responsible for the care, 818
custody, or control of a child if the person previously has been 819
convicted of or pleaded guilty to any of the following: 820

(a) A violation of section 2903.01, 2903.02, 2903.03, 821
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 822

2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 823
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 824
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 825
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 826
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 827
2925.06, or 3716.11 of the Revised Code, a violation of section 828
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 829
violation of section 2919.23 of the Revised Code that would have 830
been a violation of section 2905.04 of the Revised Code as it 831
existed prior to July 1, 1996, had the violation been committed 832
prior to that date, a violation of section 2925.11 of the Revised 833
Code that is not a minor drug possession offense, or felonious 834
sexual penetration in violation of former section 2907.12 of the 835
Revised Code; 836

(b) A violation of an existing or former law of this state, 837
any other state, or the United States that is substantially 838
equivalent to any of the offenses listed in division (C)(1)(a) of 839
this section. 840

(2) Except as provided in rules adopted by the department of 841
health in accordance with division (F) of this section and subject 842
to division (C)(3) of this section, no home health agency shall 843
employ a person in a position that involves providing direct care 844
to an older adult if the person previously has been convicted of 845
or pleaded guilty to any of the following: 846

(a) A violation of section 2903.01, 2903.02, 2903.03, 847
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 848
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 849
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 850
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 851
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 852
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 853
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 854

2925.22, 2925.23, or 3716.11 of the Revised Code. 855

(b) A violation of an existing or former law of this state, 856
any other state, or the United States that is substantially 857
equivalent to any of the offenses listed in division (C)(2)(a) of 858
this section. 859

(3)(a) A home health agency may employ conditionally an 860
applicant for whom a criminal records check request is required 861
under division (B) of this section as a person responsible for the 862
care, custody, or control of a child until the criminal records 863
check regarding the applicant required by this section is 864
completed and the agency receives the results of the criminal 865
records check. If the results of the criminal records check 866
indicate that, pursuant to division (C)(1) of this section, the 867
applicant does not qualify for employment, the agency shall 868
release the applicant from employment unless the agency chooses to 869
employ the applicant pursuant to division (F) of this section. 870

(b)(i) A home health agency may employ conditionally an 871
applicant for whom a criminal records check request is required 872
under division (B) of this section in a position that involves 873
providing direct care to an older adult or in a position that 874
involves both responsibility for the care, custody, and control of 875
a child and the provision of direct care to older adults prior to 876
obtaining the results of a criminal records check regarding the 877
individual, provided that the agency shall request a criminal 878
records check regarding the individual in accordance with division 879
(B)(1) of this section not later than five business days after the 880
individual begins conditional employment. In the circumstances 881
described in division (I)(2) of this section, a home health agency 882
may employ conditionally in a position that involves providing 883
direct care to an older adult an applicant who has been referred 884
to the home health agency by an employment service that supplies 885
full-time, part-time, or temporary staff for positions involving 886

the direct care of older adults and for whom, pursuant to that 887
division, a criminal records check is not required under division 888
(B) of this section. In the circumstances described in division 889
(I)(4) of this section, a home health agency may employ 890
conditionally in a position that involves both responsibility for 891
the care, custody, and control of a child and the provision of 892
direct care to older adults an applicant who has been referred to 893
the home health agency by an employment service that supplies 894
full-time, part-time, or temporary staff for positions involving 895
both responsibility for the care, custody, and control of a child 896
and the provision of direct care to older adults and for whom, 897
pursuant to that division, a criminal records check is not 898
required under division (B) of this section. 899

(ii) A home health agency that employs an individual 900
conditionally under authority of division (C)(3)(b)(i) of this 901
section shall terminate the individual's employment if the results 902
of the criminal records check requested under division (B)(1) of 903
this section or described in division (I)(2) or (4) of this 904
section, other than the results of any request for information 905
from the federal bureau of investigation, are not obtained within 906
the period ending thirty days after the date the request is made. 907
Regardless of when the results of the criminal records check are 908
obtained, if the individual was employed conditionally in a 909
position that involves the provision of direct care to older 910
adults and the results indicate that the individual has been 911
convicted of or pleaded guilty to any of the offenses listed or 912
described in division (C)(2) of this section, or if the individual 913
was employed conditionally in a position that involves both 914
responsibility for the care, custody, and control of a child and 915
the provision of direct care to older adults and the results 916
indicate that the individual has been convicted of or pleaded 917
guilty to any of the offenses listed or described in division 918
(C)(1) or (2) of this section, the agency shall terminate the 919

individual's employment unless the agency chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the agency about the individual's criminal record.

(D)(1) Each home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (B)(1) of this section of the chief administrator of the home health agency.

(2) A home health agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section, unless the medical assistance program established under Chapter 5111. of the Revised Code reimburses the agency for the costs. A fee charged under division (D)(2) of this section shall not exceed the amount of fees the agency pays under division (D)(1) of this section. If a fee is charged under division (D)(2) of this section, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the agency will not consider the applicant for employment.

(E) 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 division (B)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

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

(2) The home health agency requesting the criminal records check or its representative;	951 952
(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home health agency;	953 954 955 956
(4) Any court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;	957 958 959 960
(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1), (2), (3), or (4) of this section.	961 962 963
(F) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the home health agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but who meets standards in regard to rehabilitation set by the department or employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(2) of this section but meets personal character standards set by the department.	964 965 966 967 968 969 970 971 972 973
(G) Any person required by division (B)(1) of this section to request a criminal records check shall inform each person, at the time of initial application for employment that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that	974 975 976 977 978 979 980 981

position. 982

(H) In a tort or other civil action for damages that is 983
brought as the result of an injury, death, or loss to person or 984
property caused by an individual who a home health agency employs 985
in a position that involves providing direct care to older adults, 986
all of the following shall apply: 987

(1) If the agency employed the individual in good faith and 988
reasonable reliance on the report of a criminal records check 989
requested under this section, the agency shall not be found 990
negligent solely because of its reliance on the report, even if 991
the information in the report is determined later to have been 992
incomplete or inaccurate; 993

(2) If the agency employed the individual in good faith on a 994
conditional basis pursuant to division (C)(3)(b) of this section, 995
the agency shall not be found negligent solely because it employed 996
the individual prior to receiving the report of a criminal records 997
check requested under this section; 998

(3) If the agency in good faith employed the individual 999
according to the personal character standards established in rules 1000
adopted under division (F) of this section, the agency shall not 1001
be found negligent solely because the individual prior to being 1002
employed had been convicted of or pleaded guilty to an offense 1003
listed or described in division (C)(1) or (2) of this section. 1004

(I)(1) The chief administrator of a home health agency is not 1005
required to request that the superintendent of the bureau of 1006
criminal identification and investigation conduct a criminal 1007
records check of an applicant for a position that involves the 1008
provision of direct care to older adults if the applicant has been 1009
referred to the agency by an employment service that supplies 1010
full-time, part-time, or temporary staff for positions involving 1011
the direct care of older adults and both of the following apply: 1012

(a) The chief administrator receives from the employment 1013
service or the applicant a report of the results of a criminal 1014
records check regarding the applicant that has been conducted by 1015
the superintendent within the one-year period immediately 1016
preceding the applicant's referral; 1017

(b) The report of the criminal records check demonstrates 1018
that the person has not been convicted of or pleaded guilty to an 1019
offense listed or described in division (C)(2) of this section, or 1020
the report demonstrates that the person has been convicted of or 1021
pleaded guilty to one or more of those offenses, but the home 1022
health agency chooses to employ the individual pursuant to 1023
division (F) of this section. 1024

(2) The chief administrator of a home health agency is not 1025
required to request that the superintendent of the bureau of 1026
criminal identification and investigation conduct a criminal 1027
records check of an applicant for a position that involves 1028
providing direct care to older adults and may employ the applicant 1029
conditionally in a position of that nature as described in this 1030
division, if the applicant has been referred to the agency by an 1031
employment service that supplies full-time, part-time, or 1032
temporary staff for positions involving the direct care of older 1033
adults and if the chief administrator receives from the employment 1034
service or the applicant a letter from the employment service that 1035
is on the letterhead of the employment service, dated, and signed 1036
by a supervisor or another designated official of the employment 1037
service and that states that the employment service has requested 1038
the superintendent to conduct a criminal records check regarding 1039
the applicant, that the requested criminal records check will 1040
include a determination of whether the applicant has been 1041
convicted of or pleaded guilty to any offense listed or described 1042
in division (C)(2) of this section, that, as of the date set forth 1043
on the letter, the employment service had not received the results 1044

of the criminal records check, and that, when the employment 1045
service receives the results of the criminal records check, it 1046
promptly will send a copy of the results to the home health 1047
agency. If a home health agency employs an applicant conditionally 1048
in accordance with this division, the employment service, upon its 1049
receipt of the results of the criminal records check, promptly 1050
shall send a copy of the results to the home health agency, and 1051
division (C)(3)(b) of this section applies regarding the 1052
conditional employment. 1053

(3) The chief administrator of a home health agency is not 1054
required to request that the superintendent of the bureau of 1055
criminal identification and investigation conduct a criminal 1056
records check of an applicant for a position that involves both 1057
responsibility for the care, custody, and control of a child and 1058
the provision of direct care to older adults if the applicant has 1059
been referred to the agency by an employment service that supplies 1060
full-time, part-time, or temporary staff for positions involving 1061
both responsibility for the care, custody, and control of a child 1062
and the provision of direct care to older adults and both of the 1063
following apply: 1064

(a) The chief administrator receives from the employment 1065
service or applicant a report of a criminal records check of the 1066
type described in division (I)(1)(a) of this section; 1067

(b) The report of the criminal records check demonstrates 1068
that the person has not been convicted of or pleaded guilty to an 1069
offense listed or described in division (C)(1) or (2) of this 1070
section, or the report demonstrates that the person has been 1071
convicted of or pleaded guilty to one or more of those offenses, 1072
but the home health agency chooses to employ the individual 1073
pursuant to division (F) of this section. 1074

(4) The chief administrator of a home health agency is not 1075
required to request that the superintendent of the bureau of 1076

criminal identification and investigation conduct a criminal 1077
records check of an applicant for a position that involves both 1078
responsibility for the care, custody, and control of a child and 1079
the provision of direct care to older adults and may employ the 1080
applicant conditionally in a position of that nature as described 1081
in this division, if the applicant has been referred to the agency 1082
by an employment service that supplies full-time, part-time, or 1083
temporary staff for positions involving both responsibility for 1084
the care, custody, and control of a child and the direct care of 1085
older adults and if the chief administrator receives from the 1086
employment service or the applicant a letter from the employment 1087
service that is on the letterhead of the employment service, 1088
dated, and signed by a supervisor or another designated official 1089
of the employment service and that states that the employment 1090
service has requested the superintendent to conduct a criminal 1091
records check regarding the applicant, that the requested criminal 1092
records check will include a determination of whether the 1093
applicant has been convicted of or pleaded guilty to any offense 1094
listed or described in division (C)(1) or (2) of this section, 1095
that, as of the date set forth on the letter, the employment 1096
service had not received the results of the criminal records 1097
check, and that, when the employment service receives the results 1098
of the criminal records check, it promptly will send a copy of the 1099
results to the home health agency. If a home health agency employs 1100
an applicant conditionally in accordance with this division, the 1101
employment service, upon its receipt of the results of the 1102
criminal records check, promptly shall send a copy of the results 1103
to the home health agency, and division (C)(3)(b) of this section 1104
applies regarding the conditional employment. 1105

Sec. 3712.01. As used in this chapter: 1106

(A) "Hospice care program" means a coordinated program of 1107
home, outpatient, and inpatient care and services that is operated 1108

by a person or public agency and that provides the following care 1109
and services to hospice patients, including services as indicated 1110
below to hospice patients' families, through a medically directed 1111
interdisciplinary team, under interdisciplinary plans of care 1112
established pursuant to section 3712.06 of the Revised Code, in 1113
order to meet the physical, psychological, social, spiritual, and 1114
other special needs that are experienced during the final stages 1115
of illness, dying, and bereavement: 1116

(1) Nursing care by or under the supervision of a registered 1117
nurse; 1118

(2) Physical, occupational, or speech or language therapy, 1119
unless waived by the department of health pursuant to rules 1120
adopted under division (A) of section 3712.03 of the Revised Code; 1121

(3) Medical social services by a social worker under the 1122
direction of a physician; 1123

(4) Services of a home health aide; 1124

(5) Medical supplies, including drugs and biologicals, and 1125
the use of medical appliances; 1126

(6) Physician's services; 1127

(7) Short-term inpatient care, including both palliative and 1128
respite care and procedures; 1129

(8) Counseling for hospice patients and hospice patients' 1130
families; 1131

(9) Services of volunteers under the direction of the 1132
provider of the hospice care program; 1133

(10) Bereavement services for hospice patients' families. 1134

"Hospice care program" does not include a pediatric respite 1135
care program. 1136

(B) "Hospice patient" means a patient, other than a pediatric 1137

respite care patient, who has been diagnosed as terminally ill, 1138
has an anticipated life expectancy of six months or less, and has 1139
voluntarily requested and is receiving care from a person or 1140
public agency licensed under this chapter to provide a hospice 1141
care program. 1142

(C) "Hospice patient's family" means a hospice patient's 1143
immediate family members, including a spouse, brother, sister, 1144
child, or parent, and any other relative or individual who has 1145
significant personal ties to the patient and who is designated as 1146
a member of the patient's family by mutual agreement of the 1147
patient, the relative or individual, and the patient's 1148
interdisciplinary team. 1149

(D) "Interdisciplinary team" means a working unit composed of 1150
professional and lay persons that includes at least a physician, a 1151
registered nurse, a social worker, a member of the clergy or a 1152
counselor, and a volunteer. 1153

(E) "Palliative care" means treatment for a patient with a 1154
serious or life-threatening illness directed at controlling pain, 1155
relieving other symptoms, and enhancing the quality of life of the 1156
patient and the patient's family rather than treatment for the 1157
purpose of cure. Nothing in this section shall be interpreted to 1158
mean that palliative care can be provided only as a component of a 1159
hospice care program or pediatric respite care program. 1160

(F) "Physician" means a person authorized under Chapter 4731. 1161
of the Revised Code to practice medicine and surgery or 1162
osteopathic medicine and surgery. 1163

(G) "Attending physician" means the physician identified by 1164
the hospice patient ~~or the~~ pediatric respite care patient, 1165
hospice patient's family, or pediatric respite care patient's 1166
family as having primary responsibility for the ~~hospice patient's~~ 1167
medical care of the hospice patient or pediatric respite care 1168

<u>patient.</u>	1169
(H) "Registered nurse" means a person registered under Chapter 4723. of the Revised Code to practice professional nursing.	1170 1171 1172
(I) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	1173 1174 1175
<u>(J) "Pediatric respite care program" means a program operated by a person or public agency that provides inpatient respite care and related services, including all of the following services, only to pediatric respite care patients and, as indicated below, pediatric respite care patients' families, in order to meet the physical, psychological, social, spiritual, and other special needs that are experienced during or leading up to the final stages of illness, dying, and bereavement:</u>	1176 1177 1178 1179 1180 1181 1182 1183
<u>(1) Short-term inpatient care, including both palliative and respite care and procedures;</u>	1184 1185
<u>(2) Nursing care by or under the supervision of a registered nurse;</u>	1186 1187
<u>(3) Physician's services;</u>	1188
<u>(4) Medical social services by a social worker under the direction of a physician;</u>	1189 1190
<u>(5) Medical supplies, including drugs and biologicals, and the use of medical appliances;</u>	1191 1192
<u>(6) Counseling for pediatric respite care patients and pediatric respite care patients' families;</u>	1193 1194
<u>(7) Bereavement services for respite care patients' families.</u>	1195
<u>"Pediatric respite care program" does not include a hospice care program.</u>	1196 1197

(K) "Pediatric respite care patient" means a patient, other than a hospice patient, who is less than twenty-seven years of age and to whom all of the following conditions apply: 1198
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(1) The patient has been diagnosed with a disease or condition that is life-threatening and is expected to shorten the life expectancy that would have applied to the patient absent the patient's diagnosis, regardless of whether the patient is terminally ill. 1201
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(2) The diagnosis described in division (K)(1) of this section occurred while the patient was less than eighteen years of age. 1206
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(3) The patient has voluntarily requested and is receiving care from a person or public agency licensed under this chapter to provide a pediatric respite care program. 1209
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(L) "Pediatric respite care patient's family" means a pediatric respite care patient's family members, including a spouse, brother, sister, child, or parent, and any other relative or individual who has significant personal ties to the patient and who is designated as a member of the patient's family by mutual agreement of the patient, the relative or individual, and the patient's interdisciplinary team. 1212
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Sec. 3712.03. (A) In accordance with Chapter 119. of the Revised Code, the public health council shall adopt, and may amend and rescind, rules: 1219
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(1) Providing for the licensing of persons or public agencies providing hospice care programs within this state by the department of health and for the suspension and revocation of licenses; 1222
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(2) Establishing a license fee and license renewal fee for hospice care programs, neither of which shall, except as provided 1226
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in division (B) of this section, exceed six hundred dollars. The 1228
fees shall cover the three-year period during which an existing 1229
license is valid as provided in division (B) of section 3712.04 of 1230
the Revised Code. 1231

(3) Establishing an inspection fee for hospice care programs 1232
not to exceed, except as provided in division (B) of this section, 1233
one thousand seven hundred fifty dollars; 1234

(4) Establishing requirements for hospice care program 1235
facilities and services; 1236

(5) Providing for a waiver of the requirement for the 1237
provision of physical, occupational, or speech or language therapy 1238
contained in division (A)(2) of section 3712.01 of the Revised 1239
Code when the requirement would create a hardship because such 1240
therapy is not readily available in the geographic area served by 1241
the provider of a hospice care program; 1242

(6) Providing for the granting of licenses to provide hospice 1243
care programs to persons and public agencies that are accredited 1244
or certified to provide such programs by an entity whose standards 1245
for accreditation or certification equal or exceed those provided 1246
for licensure under this chapter and rules adopted under it; 1247

(7) Establishing interpretive guidelines for each rule 1248
adopted under this section. 1249

(B) Subject to the approval of the controlling board, the 1250
public health council may establish fees in excess of the maximum 1251
amounts specified in this section, provided that the fees do not 1252
exceed those amounts by greater than fifty per cent. 1253

(C) The department of health shall: 1254

(1) Grant, suspend, and revoke licenses for hospice care 1255
programs in accordance with this chapter and rules adopted under 1256
it; 1257

(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	1258 1259 1260
(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>	1261 1262 1263
<u>Sec. 3712.031.</u> (A) In accordance with Chapter 119. of the Revised Code, the director of health shall adopt, and may amend and rescind, rules:	1264 1265 1266
(1) <u>Providing for the licensing of persons or public agencies providing pediatric respite care programs within this state by the department of health and for the suspension and revocation of licenses;</u>	1267 1268 1269 1270
(2) <u>Establishing a license fee and license renewal fee for pediatric respite care programs, neither of which shall, except as provided in division (B) of this section, exceed six hundred dollars. The fees shall cover the three-year period during which an existing license is valid as provided in division (B) of section 3712.041 of the Revised Code.</u>	1271 1272 1273 1274 1275 1276
(3) <u>Establishing an inspection fee not to exceed, except as provided in division (B) of this section, one thousand seven hundred fifty dollars;</u>	1277 1278 1279
(4) <u>Establishing requirements for pediatric respite care program facilities and services;</u>	1280 1281
(5) <u>Providing for the granting of licenses to provide pediatric respite care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it;</u>	1282 1283 1284 1285 1286 1287

<u>(6) Establishing interpretive guidelines for each rule</u>	1288
<u>adopted under this section.</u>	1289
<u>(B) Subject to the approval of the controlling board, the</u>	1290
<u>director of health may establish fees in excess of the maximum</u>	1291
<u>amounts specified in this section, provided that the fees do not</u>	1292
<u>exceed those amounts by greater than fifty per cent.</u>	1293
<u>(C) The department of health shall:</u>	1294
<u>(1) Grant, suspend, and revoke licenses for pediatric respite</u>	1295
<u>care programs in accordance with this chapter and rules adopted</u>	1296
<u>under it;</u>	1297
<u>(2) Make such inspections as are necessary to determine</u>	1298
<u>whether pediatric respite care program facilities and services</u>	1299
<u>meet the requirements of this chapter and rules adopted under it;</u>	1300
<u>and</u>	1301
<u>(3) Implement and enforce provisions of this chapter and</u>	1302
<u>rules adopted under it as such provisions apply to pediatric</u>	1303
<u>respite care programs.</u>	1304
<u>Sec. 3712.041.</u> <u>(A) Every person or public agency that</u>	1305
<u>proposes to provide a pediatric respite care program shall apply</u>	1306
<u>to the department of health for a license. Application shall be</u>	1307
<u>made on forms prescribed and provided by the department, shall</u>	1308
<u>include such information as the department requires, and shall be</u>	1309
<u>accompanied by the license fee established by rules adopted by the</u>	1310
<u>director of health under division (A) of section 3712.031 of the</u>	1311
<u>Revised Code.</u>	1312
<u>The department shall grant a license to the applicant if the</u>	1313
<u>applicant is in compliance with this chapter and rules adopted</u>	1314
<u>under it.</u>	1315
<u>(B) A license granted under this section shall be valid for</u>	1316
<u>three years. Application for renewal of a license shall be made at</u>	1317

least ninety days before the expiration of the license in the same 1318
manner as for an initial license. The department shall renew the 1319
license if the applicant meets the requirements of this chapter 1320
and rules adopted under it. 1321

(C) Subject to Chapter 119. of the Revised Code, the 1322
department may suspend or revoke a license if the licensee made 1323
any material misrepresentation in the application for the license 1324
or no longer meets the requirements of this chapter or rules 1325
adopted under it. 1326

Sec. 3712.051. (A) As used in this division, "person" does 1327
not include a member of an interdisciplinary team, as defined in 1328
section 3712.01 of the Revised Code, or any individual who is 1329
employed by a person or public agency licensed under section 1330
3712.041 of the Revised Code. 1331

Except as provided in division (B) of this section, no person 1332
or public agency, other than a person or public agency licensed 1333
pursuant to section 3712.041 of the Revised Code, shall hold 1334
itself out as providing a pediatric respite care program, or 1335
provide a pediatric respite care program, or use the term 1336
"pediatric respite care program" or any term containing "pediatric 1337
respite care" to describe or refer to a health program, facility, 1338
or agency. 1339

(B) Division (A) of this section does not apply to any of the 1340
following: 1341

(1) A hospital; 1342

(2) A home providing nursing care; 1343

(3) A home health agency, if it provides services under 1344
contract with a person or public agency providing a pediatric 1345
respite care program licensed under section 3712.041 of the 1346
Revised Code; 1347

(4) A regional, state, or national nonprofit organization 1348
whose members are providers of pediatric respite care programs, 1349
individuals interested in pediatric respite care programs, or 1350
both, as long as the organization does not provide or represent 1351
that it provides pediatric respite care programs. 1352

(C) The department of health shall petition the court of 1353
common pleas of any county in which a person or public agency, 1354
without a license granted under section 3712.041 of the Revised 1355
Code, is holding itself out as providing a pediatric respite care 1356
program, is providing a pediatric respite care program, or is 1357
representing a health program, facility, or agency as a pediatric 1358
respite care program, for an order enjoining that person or public 1359
agency from conducting those activities without a license. The 1360
court has jurisdiction to grant injunctive relief upon a showing 1361
that the respondent named in the petition is conducting those 1362
activities without a license. 1363

Any person or public agency may request the department to 1364
petition the court for injunctive relief under this division, and 1365
the department shall do so if it determines that the person or 1366
public agency named in the request is violating division (A) of 1367
this section. 1368

Sec. 3712.061. (A) Any person or public agency licensed under 1369
section 3712.041 of the Revised Code to provide a pediatric 1370
respite care program shall do all of the following: 1371

(1) Provide a planned and continuous pediatric respite care 1372
program, the medical components of which shall be under the 1373
direction of a physician; 1374

(2) Ensure that care is available twenty-four hours a day and 1375
seven days a week; 1376

(3) Establish an interdisciplinary plan of care for each 1377

<u>pediatric respite care patient and the patient's family that:</u>	1378
<u>(a) Is coordinated by one designated individual who shall</u>	1379
<u>ensure that all components of the plan of care are addressed and</u>	1380
<u>implemented;</u>	1381
<u>(b) Addresses maintenance of patient-family participation in</u>	1382
<u>decision making; and</u>	1383
<u>(c) Is reviewed by the patient's attending physician and by</u>	1384
<u>the patient's interdisciplinary team immediately prior to or on</u>	1385
<u>admission to each session of respite care.</u>	1386
<u>(4) Have an interdisciplinary team or teams that provide or</u>	1387
<u>supervise the provision of pediatric respite care program services</u>	1388
<u>and establish the policies governing the provision of the</u>	1389
<u>services;</u>	1390
<u>(5) Maintain central clinical records on all pediatric</u>	1391
<u>respite care patients under its care.</u>	1392
<u>(B) A provider of a pediatric respite care program may</u>	1393
<u>arrange for another person or public agency to furnish a component</u>	1394
<u>or components of the pediatric respite care program pursuant to a</u>	1395
<u>written contract. When a provider of a pediatric respite care</u>	1396
<u>program arranges for a home health agency to furnish a component</u>	1397
<u>or components of the pediatric respite care program to its</u>	1398
<u>patient, the care shall be provided by a home health agency</u>	1399
<u>pursuant to a written contract under which:</u>	1400
<u>(1) The provider of a pediatric respite care program</u>	1401
<u>furnishes to the contractor a copy of the pediatric respite care</u>	1402
<u>patient's interdisciplinary plan of care that is established under</u>	1403
<u>division (A)(3) of this section and specifies the care that is to</u>	1404
<u>be furnished by the contractor;</u>	1405
<u>(2) The regimen described in the established plan of care is</u>	1406
<u>continued while the pediatric respite care patient receives care</u>	1407

from the contractor, subject to the patient's needs, and with 1408
approval of the coordinator of the interdisciplinary team 1409
designated pursuant to division (A)(3)(a) of this section; 1410

(3) All care, treatment, and services furnished by the 1411
contractor are entered into the pediatric respite care patient's 1412
medical record; 1413

(4) The designated coordinator of the interdisciplinary team 1414
ensures conformance with the established plan of care; and 1415

(5) A copy of the contractor's medical record and discharge 1416
summary is retained as part of the pediatric respite care 1417
patient's medical record. 1418

Sec. 3712.09. (A) As used in this section: 1419

(1) "Applicant" means a person who is under final 1420
consideration for employment with a hospice care program or 1421
pediatric respite care program in a full-time, part-time, or 1422
temporary position that involves providing direct care to an older 1423
adult or pediatric respite care patient. "Applicant" does not 1424
include a person who provides direct care as a volunteer without 1425
receiving or expecting to receive any form of remuneration other 1426
than reimbursement for actual expenses. 1427

(2) "Criminal records check" and "older adult" have the same 1428
meanings as in section 109.572 of the Revised Code. 1429

(B)(1) Except as provided in division (I) of this section, 1430
the chief administrator of a hospice care program or pediatric 1431
respite care program shall request that the superintendent of the 1432
bureau of criminal identification and investigation conduct a 1433
criminal records check with respect to each applicant. If an 1434
applicant for whom a criminal records check request is required 1435
under this division does not present proof of having been a 1436
resident of this state for the five-year period immediately prior 1437

to the date the criminal records check is requested or provide 1438
evidence that within that five-year period the superintendent has 1439
requested information about the applicant from the federal bureau 1440
of investigation in a criminal records check, the chief 1441
administrator shall request that the superintendent obtain 1442
information from the federal bureau of investigation as part of 1443
the criminal records check of the applicant. Even if an applicant 1444
for whom a criminal records check request is required under this 1445
division presents proof of having been a resident of this state 1446
for the five-year period, the chief administrator may request that 1447
the superintendent include information from the federal bureau of 1448
investigation in the criminal records check. 1449

(2) A person required by division (B)(1) of this section to 1450
request a criminal records check shall do both of the following: 1451

(a) Provide to each applicant for whom a criminal records 1452
check request is required under that division a copy of the form 1453
prescribed pursuant to division (C)(1) of section 109.572 of the 1454
Revised Code and a standard fingerprint impression sheet 1455
prescribed pursuant to division (C)(2) of that section, and obtain 1456
the completed form and impression sheet from the applicant; 1457

(b) Forward the completed form and impression sheet to the 1458
superintendent of the bureau of criminal identification and 1459
investigation. 1460

(3) An applicant provided the form and fingerprint impression 1461
sheet under division (B)(2)(a) of this section who fails to 1462
complete the form or provide fingerprint impressions shall not be 1463
employed in any position for which a criminal records check is 1464
required by this section. 1465

(C)(1) Except as provided in rules adopted by the public 1466
health council in accordance with division (F)(1) of this section 1467
or by the director of health in accordance with division (F)(2) of 1468

this section, and subject to division (C)(2) of this section, no 1469
hospice care program or pediatric respite care program shall 1470
employ a person in a position that involves providing direct care 1471
to an older adult or pediatric respite care patient if the person 1472
has been convicted of or pleaded guilty to any of the following: 1473

(a) A violation of section 2903.01, 2903.02, 2903.03, 1474
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1475
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1476
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1477
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1478
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1479
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1480
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1481
2925.22, 2925.23, or 3716.11 of the Revised Code. 1482

(b) A violation of an existing or former law of this state, 1483
any other state, or the United States that is substantially 1484
equivalent to any of the offenses listed in division (C)(1)(a) of 1485
this section. 1486

(2)(a) A hospice care program or pediatric respite care 1487
program may employ conditionally an applicant for whom a criminal 1488
records check request is required under division (B) of this 1489
section prior to obtaining the results of a criminal records check 1490
regarding the individual, provided that the program shall request 1491
a criminal records check regarding the individual in accordance 1492
with division (B)(1) of this section not later than five business 1493
days after the individual begins conditional employment. In the 1494
circumstances described in division (I)(2) of this section, a 1495
hospice care program or pediatric respite care program may employ 1496
conditionally an applicant who has been referred to the hospice 1497
care program or pediatric respite care program by an employment 1498
service that supplies full-time, part-time, or temporary staff for 1499
positions involving the direct care of older adults or pediatric 1500

respite care patients and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

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

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

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

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

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

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

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

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

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

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

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

(F)(1) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section only as it applies to hospice care programs. The rules shall specify circumstances under which a hospice care program may

employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the council.

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

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

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

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

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

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

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

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

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

(2) The chief administrator of a hospice care program or 1625
pediatric respite care program is not required to request that the 1626
superintendent of the bureau of criminal identification and 1627
investigation conduct a criminal records check of an applicant and 1628
may employ the applicant conditionally as described in this 1629
division, if the applicant has been referred to the program by an 1630
employment service that supplies full-time, part-time, or 1631
temporary staff for positions involving the direct care of older 1632
adults or pediatric respite care patients and if the chief 1633
administrator receives from the employment service or the 1634
applicant a letter from the employment service that is on the 1635
letterhead of the employment service, dated, and signed by a 1636
supervisor or another designated official of the employment 1637
service and that states that the employment service has requested 1638
the superintendent to conduct a criminal records check regarding 1639
the applicant, that the requested criminal records check will 1640
include a determination of whether the applicant has been 1641
convicted of or pleaded guilty to any offense listed or described 1642
in division (C)(1) of this section, that, as of the date set forth 1643
on the letter, the employment service had not received the results 1644
of the criminal records check, and that, when the employment 1645
service receives the results of the criminal records check, it 1646
promptly will send a copy of the results to the hospice care 1647
program or pediatric respite care program. If a hospice care 1648
program or pediatric respite care program employs an applicant 1649
conditionally in accordance with this division, the employment 1650
service, upon its receipt of the results of the criminal records 1651
check, promptly shall send a copy of the results to the hospice 1652
care program or pediatric respite care program, and division 1653
(C)(2)(b) of this section applies regarding the conditional 1654
employment. 1655

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 1656

3721.99 of the Revised Code: 1657

(1)(a) "Home" means an institution, residence, or facility 1658
that provides, for a period of more than twenty-four hours, 1659
whether for a consideration or not, accommodations to three or 1660
more unrelated individuals who are dependent upon the services of 1661
others, including a nursing home, residential care facility, home 1662
for the aging, and a veterans' home operated under Chapter 5907. 1663
of the Revised Code. 1664

(b) "Home" also means both of the following: 1665

(i) Any facility that a person, as defined in section 3702.51 1666
of the Revised Code, proposes for certification as a skilled 1667
nursing facility or nursing facility under Title XVIII or XIX of 1668
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 1669
as amended, and for which a certificate of need, other than a 1670
certificate to recategorize hospital beds as described in section 1671
3702.522 of the Revised Code or division (R)(7)(d) of the version 1672
of section 3702.51 of the Revised Code in effect immediately prior 1673
to April 20, 1995, has been granted to the person under sections 1674
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 1675

(ii) A county home or district home that is or has been 1676
licensed as a residential care facility. 1677

(c) "Home" does not mean any of the following: 1678

(i) Except as provided in division (A)(1)(b) of this section, 1679
a public hospital or hospital as defined in section 3701.01 or 1680
5122.01 of the Revised Code; 1681

(ii) A residential facility for mentally ill persons as 1682
defined under section 5119.22 of the Revised Code; 1683

(iii) A residential facility as defined in section 5123.19 of 1684
the Revised Code; 1685

(iv) An adult care facility as defined in section 5119.70 of 1686

the Revised Code;	1687
(v) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;	1688 1689
(vi) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	1690 1691
(vii) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code unless section 5123.192 of the Revised Code makes the facility subject to the requirements of this chapter;	1692 1693 1694 1695
(viii) 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;	1696 1697 1698
(ix) <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>	1699 1700 1701
(x) 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;	1702 1703 1704 1705 1706 1707 1708 1709 1710 1711
(*) (xi) A county home or district home that has never been licensed as a residential care facility.	1712 1713
(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother,	1714 1715 1716

sister, niece, nephew, aunt, uncle, or as the child of an aunt or
uncle. 1717
1718

(3) "Mental impairment" does not mean mental illness as 1719
defined in section 5122.01 of the Revised Code or mental 1720
retardation as defined in section 5123.01 of the Revised Code. 1721

(4) "Skilled nursing care" means procedures that require 1722
technical skills and knowledge beyond those the untrained person 1723
possesses and that are commonly employed in providing for the 1724
physical, mental, and emotional needs of the ill or otherwise 1725
incapacitated. "Skilled nursing care" includes, but is not limited 1726
to, the following: 1727

(a) Irrigations, catheterizations, application of dressings, 1728
and supervision of special diets; 1729

(b) Objective observation of changes in the patient's 1730
condition as a means of analyzing and determining the nursing care 1731
required and the need for further medical diagnosis and treatment; 1732

(c) Special procedures contributing to rehabilitation; 1733

(d) Administration of medication by any method ordered by a 1734
physician, such as hypodermically, rectally, or orally, including 1735
observation of the patient after receipt of the medication; 1736

(e) Carrying out other treatments prescribed by the physician 1737
that involve a similar level of complexity and skill in 1738
administration. 1739

(5)(a) "Personal care services" means services including, but 1740
not limited to, the following: 1741

(i) Assisting residents with activities of daily living; 1742

(ii) Assisting residents with self-administration of 1743
medication, in accordance with rules adopted under section 3721.04 1744
of the Revised Code; 1745

(iii) Preparing special diets, other than complex therapeutic 1746

diets, for residents pursuant to the instructions of a physician 1747
or a licensed dietitian, in accordance with rules adopted under 1748
section 3721.04 of the Revised Code. 1749

(b) "Personal care services" does not include "skilled 1750
nursing care" as defined in division (A)(4) of this section. A 1751
facility need not provide more than one of the services listed in 1752
division (A)(5)(a) of this section to be considered to be 1753
providing personal care services. 1754

(6) "Nursing home" means a home used for the reception and 1755
care of individuals who by reason of illness or physical or mental 1756
impairment require skilled nursing care and of individuals who 1757
require personal care services but not skilled nursing care. A 1758
nursing home is licensed to provide personal care services and 1759
skilled nursing care. 1760

(7) "Residential care facility" means a home that provides 1761
either of the following: 1762

(a) Accommodations for seventeen or more unrelated 1763
individuals and supervision and personal care services for three 1764
or more of those individuals who are dependent on the services of 1765
others by reason of age or physical or mental impairment; 1766

(b) Accommodations for three or more unrelated individuals, 1767
supervision and personal care services for at least three of those 1768
individuals who are dependent on the services of others by reason 1769
of age or physical or mental impairment, and, to at least one of 1770
those individuals, any of the skilled nursing care authorized by 1771
section 3721.011 of the Revised Code. 1772

(8) "Home for the aging" means a home that provides services 1773
as a residential care facility and a nursing home, except that the 1774
home provides its services only to individuals who are dependent 1775
on the services of others by reason of both age and physical or 1776
mental impairment. 1777

The part or unit of a home for the aging that provides 1778
services only as a residential care facility is licensed as a 1779
residential care facility. The part or unit that may provide 1780
skilled nursing care beyond the extent authorized by section 1781
3721.011 of the Revised Code is licensed as a nursing home. 1782

(9) "County home" and "district home" mean a county home or 1783
district home operated under Chapter 5155. of the Revised Code. 1784

(B) The public health council may further classify homes. For 1785
the purposes of this chapter, any residence, institution, hotel, 1786
congregate housing project, or similar facility that meets the 1787
definition of a home under this section is such a home regardless 1788
of how the facility holds itself out to the public. 1789

(C) For purposes of this chapter, personal care services or 1790
skilled nursing care shall be considered to be provided by a 1791
facility if they are provided by a person employed by or 1792
associated with the facility or by another person pursuant to an 1793
agreement to which neither the resident who receives the services 1794
nor the resident's sponsor is a party. 1795

(D) Nothing in division (A)(4) of this section shall be 1796
construed to permit skilled nursing care to be imposed on an 1797
individual who does not require skilled nursing care. 1798

Nothing in division (A)(5) of this section shall be construed 1799
to permit personal care services to be imposed on an individual 1800
who is capable of performing the activity in question without 1801
assistance. 1802

(E) Division (A)(1)(c)(ix) of this section does not prohibit 1803
a facility, infirmary, or other entity described in that division 1804
from seeking licensure under sections 3721.01 to 3721.09 of the 1805
Revised Code or certification under Title XVIII or XIX of the 1806
"Social Security Act." However, such a facility, infirmary, or 1807
entity that applies for licensure or certification must meet the 1808

requirements of those sections or titles and the rules adopted 1809
under them and obtain a certificate of need from the director of 1810
health under section 3702.52 of the Revised Code. 1811

(F) Nothing in this chapter, or rules adopted pursuant to it, 1812
shall be construed as authorizing the supervision, regulation, or 1813
control of the spiritual care or treatment of residents or 1814
patients in any home who rely upon treatment by prayer or 1815
spiritual means in accordance with the creed or tenets of any 1816
recognized church or religious denomination. 1817

Sec. 3795.01. As used in sections 3795.01, 3795.02, and 1818
3795.03 of the Revised Code: 1819

(A) "Assist suicide" or "assisting suicide" means knowingly 1820
doing either of the following, with the purpose of helping another 1821
person to commit or attempt suicide: 1822

(1) Providing the physical means by which the person commits 1823
or attempts to commit suicide; 1824

(2) Participating in a physical act by which the person 1825
commits or attempts to commit suicide. 1826

(B) "Certified nurse practitioner," "certified 1827
nurse-midwife," and "clinical nurse specialist" have the same 1828
meanings as in section 4723.01 of the Revised Code. 1829

(C) "CPR" has the same meaning as in section 2133.21 of the 1830
Revised Code. 1831

(D) "Health care" means any care, treatment, service, or 1832
procedure to maintain, diagnose, or treat a person's physical or 1833
mental condition. 1834

(E) "Health care decision" means informed consent, refusal to 1835
give informed consent, or withdrawal of informed consent to health 1836
care. 1837

(F) "Health care facility" means any of the following:	1838
(1) A hospital;	1839
(2) A hospice care program <u>or pediatric respite care program</u>	1840
as defined in section 3712.01 of the Revised Code;	1841
(3) A nursing home;	1842
(4) A home health agency;	1843
(5) An intermediate care facility for the mentally retarded.	1844
(G) "Health care personnel" means physicians, nurses,	1845
physician assistants, emergency medical technicians-basic,	1846
emergency medical technicians-intermediate, emergency medical	1847
technicians-paramedic, medical technicians, dietitians, other	1848
authorized persons acting under the direction of an attending	1849
physician, and administrators of health care facilities.	1850
(H) "Physician" means a person who is authorized under	1851
Chapter 4731. of the Revised Code to practice medicine and surgery	1852
or osteopathic medicine and surgery.	1853
Sec. 3963.01. As used in this chapter:	1854
(A) "Affiliate" means any person or entity that has ownership	1855
or control of a contracting entity, is owned or controlled by a	1856
contracting entity, or is under common ownership or control with a	1857
contracting entity.	1858
(B) "Basic health care services" has the same meaning as in	1859
division (A) of section 1751.01 of the Revised Code, except that	1860
it does not include any services listed in that division that are	1861
provided by a pharmacist or nursing home.	1862
(C) "Contracting entity" means any person that has a primary	1863
business purpose of contracting with participating providers for	1864
the delivery of health care services.	1865
(D) "Credentialing" means the process of assessing and	1866

validating the qualifications of a provider applying to be 1867
approved by a contracting entity to provide basic health care 1868
services, specialty health care services, or supplemental health 1869
care services to enrollees. 1870

(E) "Edit" means adjusting one or more procedure codes billed 1871
by a participating provider on a claim for payment or a practice 1872
that results in any of the following: 1873

(1) Payment for some, but not all of the procedure codes 1874
originally billed by a participating provider; 1875

(2) Payment for a different procedure code than the procedure 1876
code originally billed by a participating provider; 1877

(3) A reduced payment as a result of services provided to an 1878
enrollee that are claimed under more than one procedure code on 1879
the same service date. 1880

(F) "Electronic claims transport" means to accept and 1881
digitize claims or to accept claims already digitized, to place 1882
those claims into a format that complies with the electronic 1883
transaction standards issued by the United States department of 1884
health and human services pursuant to the "Health Insurance 1885
Portability and Accountability Act of 1996," 110 Stat. 1955, 42 1886
U.S.C. 1320d, et seq., as those electronic standards are 1887
applicable to the parties and as those electronic standards are 1888
updated from time to time, and to electronically transmit those 1889
claims to the appropriate contracting entity, payer, or 1890
third-party administrator. 1891

(G) "Enrollee" means any person eligible for health care 1892
benefits under a health benefit plan, including an eligible 1893
recipient of medicaid under Chapter 5111. of the Revised Code, and 1894
includes all of the following terms: 1895

(1) "Enrollee" and "subscriber" as defined by section 1751.01 1896
of the Revised Code; 1897

(2) "Member" as defined by section 1739.01 of the Revised Code;	1898 1899
(3) "Insured" and "plan member" pursuant to Chapter 3923. of the Revised Code;	1900 1901
(4) "Beneficiary" as defined by section 3901.38 of the Revised Code.	1902 1903
(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.	1904 1905 1906 1907 1908
(I) "Health care services" means basic health care services, specialty health care services, and supplemental health care services.	1909 1910 1911
(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:	1912 1913 1914 1915 1916 1917
(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;	1918 1919 1920 1921
(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;	1922 1923 1924 1925
(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability	1926 1927

of which is clearly identified in the contract;	1928
(4) Changes to an existing prior authorization,	1929
precertification, notification, or referral program that do not	1930
substantially increase the provider's administrative expense;	1931
(5) Changes to an edit program or to specific edits if the	1932
participating provider is provided notice of the changes pursuant	1933
to division (A)(1) of section 3963.04 of the Revised Code and the	1934
notice includes information sufficient for the provider to	1935
determine the effect of the change;	1936
(6) Changes to a health care contract described in division	1937
(B) of section 3963.04 of the Revised Code.	1938
(K) "Participating provider" means a provider that has a	1939
health care contract with a contracting entity and is entitled to	1940
reimbursement for health care services rendered to an enrollee	1941
under the health care contract.	1942
(L) "Payer" means any person that assumes the financial risk	1943
for the payment of claims under a health care contract or the	1944
reimbursement for health care services provided to enrollees by	1945
participating providers pursuant to a health care contract.	1946
(M) "Primary enrollee" means a person who is responsible for	1947
making payments for participation in a health care plan or an	1948
enrollee whose employment or other status is the basis of	1949
eligibility for enrollment in a health care plan.	1950
(N) "Procedure codes" includes the American medical	1951
association's current procedural terminology code, the American	1952
dental association's current dental terminology, and the centers	1953
for medicare and medicaid services health care common procedure	1954
coding system.	1955
(O) "Product" means one of the following types of categories	1956
of coverage for which a participating provider may be obligated to	1957

provide health care services pursuant to a health care contract:	1958
(1) A health maintenance organization or other product	1959
provided by a health insuring corporation;	1960
(2) A preferred provider organization;	1961
(3) Medicare;	1962
(4) Medicaid;	1963
(5) Workers' compensation.	1964
(P) "Provider" means a physician, podiatrist, dentist,	1965
chiropractor, optometrist, psychologist, physician assistant,	1966
advanced practice nurse, occupational therapist, massage	1967
therapist, physical therapist, professional counselor,	1968
professional clinical counselor, hearing aid dealer, orthotist,	1969
prosthetist, home health agency, hospice care program, <u>pediatric</u>	1970
<u>respite care program</u> , or hospital, or a provider organization or	1971
physician-hospital organization that is acting exclusively as an	1972
administrator on behalf of a provider to facilitate the provider's	1973
participation in health care contracts. "Provider" does not mean a	1974
pharmacist, pharmacy, nursing home, or a provider organization or	1975
physician-hospital organization that leases the provider	1976
organization's or physician-hospital organization's network to a	1977
third party or contracts directly with employers or health and	1978
welfare funds.	1979
(Q) "Specialty health care services" has the same meaning as	1980
in section 1751.01 of the Revised Code, except that it does not	1981
include any services listed in division (B) of section 1751.01 of	1982
the Revised Code that are provided by a pharmacist or a nursing	1983
home.	1984
(R) "Supplemental health care services" has the same meaning	1985
as in division (B) of section 1751.01 of the Revised Code, except	1986
that it does not include any services listed in that division that	1987

are provided by a pharmacist or nursing home. 1988

Sec. 4719.01. (A) As used in sections 4719.01 to 4719.18 of 1989
the Revised Code: 1990

(1) "Affiliate" means a business entity that is owned by, 1991
operated by, controlled by, or under common control with another 1992
business entity. 1993

(2) "Communication" means a written or oral notification or 1994
advertisement that meets both of the following criteria, as 1995
applicable: 1996

(a) The notification or advertisement is transmitted by or on 1997
behalf of the seller of goods or services and by or through any 1998
printed, audio, video, cinematic, telephonic, or electronic means. 1999

(b) In the case of a notification or advertisement other than 2000
by telephone, either of the following conditions is met: 2001

(i) The notification or advertisement is followed by a 2002
telephone call from a telephone solicitor or salesperson. 2003

(ii) The notification or advertisement invites a response by 2004
telephone, and, during the course of that response, a telephone 2005
solicitor or salesperson attempts to make or makes a sale of goods 2006
or services. As used in division (A)(2)(b)(ii) of this section, 2007
"invites a response by telephone" excludes the mere listing or 2008
inclusion of a telephone number in a notification or 2009
advertisement. 2010

(3) "Gift, award, or prize" means anything of value that is 2011
offered or purportedly offered, or given or purportedly given by 2012
chance, at no cost to the receiver and with no obligation to 2013
purchase goods or services. As used in this division, "chance" 2014
includes a situation in which a person is guaranteed to receive an 2015
item and, at the time of the offer or purported offer, the 2016
telephone solicitor does not identify the specific item that the 2017

person will receive. 2018

(4) "Goods or services" means any real property or any 2019
tangible or intangible personal property, or services of any kind 2020
provided or offered to a person. "Goods or services" includes, but 2021
is not limited to, advertising; labor performed for the benefit of 2022
a person; personal property intended to be attached to or 2023
installed in any real property, regardless of whether it is so 2024
attached or installed; timeshare estates or licenses; and extended 2025
service contracts. 2026

(5) "Purchaser" means a person that is solicited to become or 2027
does become financially obligated as a result of a telephone 2028
solicitation. 2029

(6) "Salesperson" means an individual who is employed, 2030
appointed, or authorized by a telephone solicitor to make 2031
telephone solicitations but does not mean any of the following: 2032

(a) An individual who comes within one of the exemptions in 2033
division (B) of this section; 2034

(b) An individual employed, appointed, or authorized by a 2035
person who comes within one of the exemptions in division (B) of 2036
this section; 2037

(c) An individual under a written contract with a person who 2038
comes within one of the exemptions in division (B) of this 2039
section, if liability for all transactions with purchasers is 2040
assumed by the person so exempted. 2041

(7) "Telephone solicitation" means a communication to a 2042
person that meets both of the following criteria: 2043

(a) The communication is initiated by or on behalf of a 2044
telephone solicitor or by a salesperson. 2045

(b) The communication either represents a price or the 2046
quality or availability of goods or services or is used to induce 2047

the person to purchase goods or services, including, but not 2048
limited to, inducement through the offering of a gift, award, or 2049
prize. 2050

(8) "Telephone solicitor" means a person that engages in 2051
telephone solicitation directly or through one or more 2052
salespersons either from a location in this state, or from a 2053
location outside this state to persons in this state. "Telephone 2054
solicitor" includes, but is not limited to, any such person that 2055
is an owner, operator, officer, or director of, partner in, or 2056
other individual engaged in the management activities of, a 2057
business. 2058

(B) A telephone solicitor is exempt from the provisions of 2059
sections 4719.02 to 4719.18 and section 4719.99 of the Revised 2060
Code if the telephone solicitor is any one of the following: 2061

(1) A person engaging in a telephone solicitation that is a 2062
one-time or infrequent transaction not done in the course of a 2063
pattern of repeated transactions of a like nature; 2064

(2) A person engaged in telephone solicitation solely for 2065
religious or political purposes; a charitable organization, 2066
fund-raising counsel, or professional solicitor in compliance with 2067
the registration and reporting requirements of Chapter 1716. of 2068
the Revised Code; or any person or other entity exempt under 2069
section 1716.03 of the Revised Code from filing a registration 2070
statement under section 1716.02 of the Revised Code; 2071

(3) A person, making a telephone solicitation involving a 2072
home solicitation sale as defined in section 1345.21 of the 2073
Revised Code, that makes the sales presentation and completes the 2074
sale at a later, face-to-face meeting between the seller and the 2075
purchaser rather than during the telephone solicitation. However, 2076
if the person, following the telephone solicitation, causes 2077
another person to collect the payment of any money, this exemption 2078

does not apply. 2079

(4) A licensed securities, commodities, or investment broker, 2080
dealer, investment advisor, or associated person when making a 2081
telephone solicitation within the scope of the person's license. 2082
As used in division (B)(4) of this section, "licensed securities, 2083
commodities, or investment broker, dealer, investment advisor, or 2084
associated person" means a person subject to licensure or 2085
registration as such by the securities and exchange commission; 2086
the National Association of Securities Dealers or other 2087
self-regulatory organization, as defined by 15 U.S.C.A. 78c; by 2088
the division of securities under Chapter 1707. of the Revised 2089
Code; or by an official or agency of any other state of the United 2090
States. 2091

(5)(a) A person primarily engaged in soliciting the sale of a 2092
newspaper of general circulation; 2093

(b) As used in division (B)(5)(a) of this section, "newspaper 2094
of general circulation" includes, but is not limited to, both of 2095
the following: 2096

(i) A newspaper that is a daily law journal designated as an 2097
official publisher of court calendars pursuant to section 2701.09 2098
of the Revised Code; 2099

(ii) A newspaper or publication that has at least twenty-five 2100
per cent editorial, non-advertising content, exclusive of inserts, 2101
measured relative to total publication space, and an audited 2102
circulation to at least fifty per cent of the households in the 2103
newspaper's retail trade zone as defined by the audit. 2104

(6)(a) An issuer, or its subsidiary, that has a class of 2105
securities to which all of the following apply: 2106

(i) The class of securities is subject to section 12 of the 2107
"Securities Exchange Act of 1934," 15 U.S.C.A. 781, and is 2108
registered or is exempt from registration under 15 U.S.C.A. 2109

781(g)(2)(A), (B), (C), (E), (F), (G), or (H);	2110
(ii) The class of securities is listed on the New York stock exchange, the American stock exchange, or the NASDAQ national market system;	2111 2112 2113
(iii) The class of securities is a reported security as defined in 17 C.F.R. 240.11Aa3-1(a)(4).	2114 2115
(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.	2116 2117 2118 2119 2120 2121 2122 2123 2124 2125
(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;	2126 2127 2128 2129 2130
(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;	2131 2132 2133 2134 2135 2136 2137
(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	2138 2139 2140

association, savings bank, credit union, industrial loan company, 2141
consumer finance lender, commercial finance lender, or institution 2142
described in section 2(c)(2)(F) of the "Bank Holding Company Act 2143
of 1956," 12 U.S.C.A. 1841(c)(2)(F), as amended, supervised by an 2144
official or agency of the United States, this state, or any other 2145
state of the United States; or a licensee or registrant under 2146
sections 1321.01 to 1321.19, 1321.51 to 1321.60, or 1321.71 to 2147
1321.83 of the Revised Code. 2148

(10)(a) An insurance company, association, or other 2149
organization that is licensed or authorized to conduct business in 2150
this state by the superintendent of insurance pursuant to Title 2151
XXXIX of the Revised Code or Chapter 1751. of the Revised Code, 2152
when soliciting within the scope of its license or authorization. 2153

(b) A licensed insurance broker, agent, or solicitor when 2154
soliciting within the scope of the person's license. As used in 2155
division (B)(10)(b) of this section, "licensed insurance broker, 2156
agent, or solicitor" means any person licensed as an insurance 2157
broker, agent, or solicitor by the superintendent of insurance 2158
pursuant to Title XXXIX of the Revised Code. 2159

(11) A person soliciting the sale of services provided by a 2160
cable television system operating under authority of a 2161
governmental franchise or permit; 2162

(12) A person soliciting a business-to-business sale under 2163
which any of the following conditions are met: 2164

(a) The telephone solicitor has been operating continuously 2165
for at least three years under the same business name under which 2166
it solicits purchasers, and at least fifty-one per cent of its 2167
gross dollar volume of sales consists of repeat sales to existing 2168
customers to whom it has made sales under the same business name. 2169

(b) The purchaser business intends to resell the goods 2170
purchased. 2171

(c) The purchaser business intends to use the goods or	2172
services purchased in a recycling, reuse, manufacturing, or	2173
remanufacturing process.	2174
(d) The telephone solicitor is a publisher of a periodical or	2175
of magazines distributed as controlled circulation publications as	2176
defined in division (CC) of section 5739.01 of the Revised Code	2177
and is soliciting sales of advertising, subscriptions, reprints,	2178
lists, information databases, conference participation or	2179
sponsorships, trade shows or media products related to the	2180
periodical or magazine, or other publishing services provided by	2181
the controlled circulation publication.	2182
(13) A person that, not less often than once each year,	2183
publishes and delivers to potential purchasers a catalog that	2184
complies with both of the following:	2185
(a) It includes all of the following:	2186
(i) The business address of the seller;	2187
(ii) A written description or illustration of each good or	2188
service offered for sale;	2189
(iii) A clear and conspicuous disclosure of the sale price of	2190
each good or service; shipping, handling, and other charges; and	2191
return policy+.	2192
(b) One of the following applies:	2193
(i) The catalog includes at least twenty-four pages of	2194
written material and illustrations, is distributed in more than	2195
one state, and has an annual postage-paid mail circulation of not	2196
less than two hundred fifty thousand households;	2197
(ii) The catalog includes at least ten pages of written	2198
material or an equivalent amount of material in electronic form on	2199
the internet or an on-line computer service, the person does not	2200
solicit customers by telephone but solely receives telephone calls	2201

made in response to the catalog, and during the calls the person 2202
takes orders but does not engage in further solicitation of the 2203
purchaser. As used in division (B)(13)(b)(ii) of this section, 2204
"further solicitation" does not include providing the purchaser 2205
with information about, or attempting to sell, any other item in 2206
the catalog that prompted the purchaser's call or in a 2207
substantially similar catalog issued by the seller. 2208

(14) A political subdivision or instrumentality of the United 2209
States, this state, or any state of the United States; 2210

(15) A college or university or any other public or private 2211
institution of higher education in this state; 2212

(16) A public utility as defined in section 4905.02 of the 2213
Revised Code or a retail natural gas supplier as defined in 2214
section 4929.01 of the Revised Code, if the utility or supplier is 2215
subject to regulation by the public utilities commission, or the 2216
affiliate of the utility or supplier; 2217

(17) A person that solicits sales through a television 2218
program or advertisement that is presented in the same market area 2219
no fewer than twenty days per month or offers for sale no fewer 2220
than ten distinct items of goods or services; and offers to the 2221
purchaser an unconditional right to return any good or service 2222
purchased within a period of at least seven days and to receive a 2223
full refund within thirty days after the purchaser returns the 2224
good or cancels the service; 2225

(18)(a) A person that, for at least one year, has been 2226
operating a retail business under the same name as that used in 2227
connection with telephone solicitation and both of the following 2228
occur on a continuing basis: 2229

(i) The person either displays goods and offers them for 2230
retail sale at the person's business premises or offers services 2231
for sale and provides them at the person's business premises. 2232

(ii) At least fifty-one per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises.	2233 2234 2235
(b) An affiliate of a person that meets the requirements in division (B)(18)(a) of this section if the affiliate meets all of the following requirements:	2236 2237 2238
(i) The affiliate has operated a retail business for a period of less than one year;	2239 2240
(ii) The affiliate either displays goods and offers them for retail sale at the affiliate's business premises or offers services for sale and provides them at the affiliate's business premises;	2241 2242 2243 2244
(iii) At least fifty-one per cent of the affiliate's gross dollar volume of retail sales involves purchases of goods or services at the affiliate's business premises.	2245 2246 2247
(c) A person that, for a period of less than one year, has been operating a retail business in this state under the same name as that used in connection with telephone solicitation, as long as all of the following requirements are met:	2248 2249 2250 2251
(i) The person either displays goods and offers them for retail sale at the person's business premises or offers services for sale and provides them at the person's business premises;	2252 2253 2254
(ii) The goods or services that are the subject of telephone solicitation are sold at the person's business premises, and at least sixty-five per cent of the person's gross dollar volume of retail sales involves purchases of goods or services at the person's business premises;	2255 2256 2257 2258 2259
(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rule adopted by the federal trade commission	2260 2261 2262

in 16 C.F.R. part 310.	2263
(19) A person who performs telephone solicitation sales	2264
services on behalf of other persons and to whom one of the	2265
following applies:	2266
(a) The person has operated under the same ownership,	2267
control, and business name for at least five years, and the person	2268
receives at least seventy-five per cent of its gross revenues from	2269
written telephone solicitation contracts with persons who come	2270
within one of the exemptions in division (B) of this section.	2271
(b) The person is an affiliate of one or more exempt persons	2272
and makes telephone solicitations on behalf of only the exempt	2273
persons of which it is an affiliate.	2274
(c) The person makes telephone solicitations on behalf of	2275
only exempt persons, the person and each exempt person on whose	2276
behalf telephone solicitations are made have entered into a	2277
written contract that specifies the manner in which the telephone	2278
solicitations are to be conducted and that at a minimum requires	2279
compliance with the telemarketing sales rule adopted by the	2280
federal trade commission in 16 C.F.R. part 310, and the person	2281
conducts the telephone solicitations in the manner specified in	2282
the written contract.	2283
(d) The person performs telephone solicitation for religious	2284
or political purposes, a charitable organization, a fund-raising	2285
council, or a professional solicitor in compliance with the	2286
registration and reporting requirements of Chapter 1716. of the	2287
Revised Code; and meets all of the following requirements:	2288
(i) The person has operated under the same ownership,	2289
control, and business name for at least five years, and the person	2290
receives at least fifty-one per cent of its gross revenues from	2291
written telephone solicitation contracts with persons who come	2292
within the exemption in division (B)(2) of this section;	2293

(ii) The person does not conduct a prize promotion or offer the sale of an investment opportunity;	2294 2295
(iii) The person conducts all telephone solicitation activities according to sections 310.3, 310.4, and 310.5 of the telemarketing sales rules adopted by the federal trade commission in 16 C.F.R. part 310.	2296 2297 2298 2299
(20) A person that is a licensed real estate salesperson or broker under Chapter 4735. of the Revised Code when soliciting within the scope of the person's license;	2300 2301 2302
(21)(a) Either of the following:	2303
(i) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature on behalf of a publisher under a written agreement directly between the publisher and the person.	2304 2305 2306 2307
(ii) A publisher that solicits the sale of the publisher's periodical or magazine of general, paid circulation, or a person that solicits a sale of that nature as authorized by a publisher under a written agreement directly with a publisher's clearinghouse provided the person is a resident of Ohio for more than three years and initiates all telephone solicitations from Ohio and the person conducts the solicitation and sale in compliance with 16 C.F.R. part 310, as adopted by the federal trade commission.	2308 2309 2310 2311 2312 2313 2314 2315 2316
(b) As used in division (B)(21) of this section, "periodical or magazine of general, paid circulation" excludes a periodical or magazine circulated only as part of a membership package or given as a free gift or prize from the publisher or person.	2317 2318 2319 2320
(22) A person that solicits the sale of food, as defined in section 3715.01 of the Revised Code, or the sale of products of horticulture, as defined in section 5739.01 of the Revised Code, if the person does not intend the solicitation to result in, or	2321 2322 2323 2324

the solicitation actually does not result in, a sale that costs 2325
the purchaser an amount greater than five hundred dollars. 2326

(23) A funeral director licensed pursuant to Chapter 4717. of 2327
the Revised Code when soliciting within the scope of that license, 2328
if both of the following apply: 2329

(a) The solicitation and sale are conducted in compliance 2330
with 16 C.F.R. part 453, as adopted by the federal trade 2331
commission, and with sections 1107.33 and 1345.21 to 1345.28 of 2332
the Revised Code; 2333

(b) The person provides to the purchaser of any preneed 2334
funeral contract a notice that clearly and conspicuously sets 2335
forth the cancellation rights specified in division (G) of section 2336
1107.33 of the Revised Code, and retains a copy of the notice 2337
signed by the purchaser. 2338

(24) A person, or affiliate thereof, licensed to sell or 2339
issue Ohio instruments designated as travelers checks pursuant to 2340
sections 1315.01 to 1315.18 of the Revised Code. 2341

(25) A person that solicits sales from its previous 2342
purchasers and meets all of the following requirements: 2343

(a) The solicitation is made under the same business name 2344
that was previously used to sell goods or services to the 2345
purchaser; 2346

(b) The person has, for a period of not less than three 2347
years, operated a business under the same business name as that 2348
used in connection with telephone solicitation; 2349

(c) The person does not conduct a prize promotion or offer 2350
the sale of an investment opportunity; 2351

(d) The person conducts all telephone solicitation activities 2352
according to sections 310.3, 310.4, and 310.5 of the telemarketing 2353
sales rules adopted by the federal trade commission in 16 C.F.R. 2354

part 310; 2355

(e) Neither the person nor any of its principals has been 2356
convicted of, pleaded guilty to, or has entered a plea of no 2357
contest for a felony or a theft offense as defined in sections 2358
2901.02 and 2913.01 of the Revised Code or similar law of another 2359
state or of the United States; 2360

(f) Neither the person nor any of its principals has had 2361
entered against them an injunction or a final judgment or order, 2362
including an agreed judgment or order, an assurance of voluntary 2363
compliance, or any similar instrument, in any civil or 2364
administrative action involving engaging in a pattern of corrupt 2365
practices, fraud, theft, embezzlement, fraudulent conversion, or 2366
misappropriation of property; the use of any untrue, deceptive, or 2367
misleading representation; or the use of any unfair, unlawful, 2368
deceptive, or unconscionable trade act or practice. 2369

(26) An institution defined as a home health agency in 2370
section 3701.881 of the Revised Code, that conducts all telephone 2371
solicitation activities according to sections 310.3, 310.4, and 2372
310.5 of the telemarketing sales rules adopted by the federal 2373
trade commission in 16 C.F.R. part 310, and engages in telephone 2374
solicitation only within the scope of the institution's 2375
certification, accreditation, contract with the department of 2376
aging, or status as a home health agency; and that meets one of 2377
the following requirements: 2378

(a) The institution is certified as a provider of home health 2379
services under Title XVIII of the Social Security Act, 49 Stat. 2380
620, 42 U.S.C. 301, as amended; 2381

(b) The institution is accredited by either the joint 2382
commission on accreditation of health care organizations or the 2383
community health accreditation program; 2384

(c) The institution is providing passport services under the 2385

direction of the Ohio department of aging under section 173.40 of 2386
the Revised Code; 2387

(d) An affiliate of an institution that meets the 2388
requirements of division (B)(26)(a), (b), or (c) of this section 2389
when offering for sale substantially the same goods and services 2390
as those that are offered by the institution that meets the 2391
requirements of division (B)(26)(a), (b), or (c) of this section. 2392

(27) A person licensed ~~to provide a hospice care program~~ by 2393
the department of health pursuant to section 3712.04 or 3712.041 2394
of the Revised Code to provide a hospice care program or pediatric 2395
respite care program when conducting telephone solicitations 2396
within the scope of the person's license and according to sections 2397
310.3, 310.4, and 310.5 of the telemarketing sales rules adopted 2398
by the federal trade commission in 16 C.F.R. part 310. 2399

Sec. 4752.02. (A) Except as provided in division (B) of this 2400
section, no person shall provide home medical equipment services 2401
or claim to the public to be a home medical equipment services 2402
provider unless either of the following is the case: 2403

(1) The person holds a valid license issued under this 2404
chapter; 2405

(2) The person holds a valid certificate of registration 2406
issued under this chapter. 2407

(B) Division (A) of this section does not apply to any of the 2408
following: 2409

(1) A health care practitioner, as defined in section 4769.01 2410
of the Revised Code, who does not sell or rent home medical 2411
equipment; 2412

(2) A hospital that provides home medical equipment services 2413
only as an integral part of patient care and does not provide the 2414
services through a separate entity that has its own medicare or 2415

medicaid provider number;	2416
(3) A manufacturer or wholesale distributor of home medical equipment that does not sell directly to the public;	2417 2418
(4) A hospice care program <u>or pediatric respite care program</u> , as defined by section 3712.01 of the Revised Code, that does not sell or rent home medical equipment;	2419 2420 2421
(5) A home, as defined by section 3721.01 of the Revised Code;	2422 2423
(6) A home health agency that is certified under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as a provider of home health services and does not sell or rent home medical equipment;	2424 2425 2426 2427
(7) An individual who holds a current, valid license issued under Chapter 4741. of the Revised Code to practice veterinary medicine;	2428 2429 2430
(8) An individual who holds a current, valid license issued under Chapter 4779. of the Revised Code to practice orthotics, prosthetics, or pedorthics;	2431 2432 2433
(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;	2434 2435 2436 2437
(10) A home dialysis equipment provider regulated by federal law.	2438 2439
Sec. 5119.70. (A) As used in sections 5119.70 to 5119.88 <u>of the Revised Code</u> :	2440 2441
(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible.	2442 2443 2444

(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.

(3) "Adult" means an individual eighteen years of age or older.

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager'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.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

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

(i) Assistance with activities of daily living;

(ii) Assistance with self-administration of medication, in accordance with rules adopted under section 5119.79 of the Revised Code;

(iii) Preparation of special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 5119.79 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section for the facility to be considered to be providing personal care services.

(7) "Adult family home" means a residence or facility that provides accommodations and supervision to three to five unrelated adults, at least three of whom require personal care services.

(8) "Adult group home" means a residence or facility that provides accommodations and supervision to six to sixteen unrelated adults, at least three of whom require personal care services.

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of sections 5119.70 to 5119.88 of the Revised Code, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom require personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) 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;

(b) 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;

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

~~(e)~~(d) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

~~(d)~~(e) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

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

~~(f)~~(g) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;

~~(g)~~(h) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;

~~(h)~~(i) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

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

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

(10) "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare.

(11) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

(12) "Mental health agency" means a community mental health agency, as defined in division (H) of section 5122.01 of the Revised Code, under contract with an ADAMHS board pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

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

(14) "Mental health resident program participation agreement" 2535
means a written agreement between an adult care facility and the 2536
ADAMHS board serving the alcohol, drug addiction, and mental 2537
health service district in which the facility is located, under 2538
which the facility is authorized to admit residents who are 2539
receiving or are eligible for publicly funded mental health 2540
services. 2541

(15) "RSS administrative agency" means an entity that 2542
provides administrative services regarding the residential state 2543
supplement program on behalf of the department of mental health, 2544
either by having entered into a contract with the department to 2545
serve in that capacity or by having the department otherwise 2546
delegate to it the responsibility to serve in that capacity. 2547

(B) For purposes of sections 5119.70 to 5119.88 of the 2548
Revised Code, personal care services or skilled nursing care shall 2549
be considered to be provided by a facility if they are provided by 2550
a person employed by or associated with the facility or by another 2551
person pursuant to an agreement to which neither the resident who 2552
receives the services nor the resident's sponsor is a party. 2553

(C) Nothing in division (A)(6) of this section shall be 2554
construed to permit personal care services to be imposed upon a 2555
resident who is capable of performing the activity in question 2556
without assistance. 2557

Sec. 5119.71. A person seeking a license to operate an adult 2558
care facility shall submit to the director of mental health an 2559
application on a form prescribed by the director and the 2560
following: 2561

(A) In the case of an adult group home seeking licensure as 2562
an adult care facility, evidence that the home has been inspected 2563
and approved by a local certified building department or by the 2564
division of labor in the department of commerce as meeting the 2565

applicable requirements of sections 3781.06 to 3781.18 and 3791.04 2566
of the Revised Code and any rules adopted under those sections and 2567
evidence that the home has been inspected by the state fire 2568
marshal or fire prevention officer of a municipal, township, or 2569
other legally constituted fire department approved by the state 2570
fire marshal and found to be in compliance with rules adopted 2571
under section 3737.83 of the Revised Code regarding fire 2572
prevention and safety in adult group homes; 2573

(B) Valid approvals of the facility's water and sewage 2574
systems issued by the responsible governmental entity, if 2575
applicable; 2576

(C) A statement of ownership containing the following 2577
information: 2578

(1) If the owner is an individual, the owner's name, address, 2579
telephone number, business address, business telephone number, and 2580
occupation. If the owner is an association, corporation, or 2581
partnership, the business activity, address, and telephone number 2582
of the entity and the name of every person who has an ownership 2583
interest of five per cent or more in the entity. 2584

(2) If the owner does not own the building or if the owner 2585
owns only part of the building in which the facility is housed, 2586
the name of each person who has an ownership interest of five per 2587
cent or more in the building; 2588

(3) The address of any adult care facility and any facility 2589
described in divisions (A)(9)(a) to ~~(j)~~(k) of section 5119.70 of 2590
the Revised Code in which the owner has an ownership interest of 2591
five per cent or more; 2592

(4) The identity of the manager of the adult care facility, 2593
if different from the owner; 2594

(5) The name and address of any adult care facility and any 2595
facility described in divisions (A)(9)(a) to ~~(j)~~(k) of section 2596

5119.70 of the Revised Code with which either the owner or manager 2597
has been affiliated through ownership or employment in the five 2598
years prior to the date of the application; 2599

(6) The names and addresses of three persons not employed by 2600
or associated in business with the owner who will provide 2601
information about the character, reputation, and competence of the 2602
owner and the manager and the financial responsibility of the 2603
owner; 2604

(7) Information about any arrest of the owner or manager for, 2605
or adjudication or conviction of, a criminal offense related to 2606
the provision of care in an adult care facility or any facility 2607
described in divisions (A)(9)(a) to ~~(j)~~(k) of section 5119.70 of 2608
the Revised Code or the ability to operate a facility; 2609

(8) Any other information the director may require regarding 2610
the owner's ability to operate the facility. 2611

(D) If the facility is an adult group home, a balance sheet 2612
showing the assets and liabilities of the owner and a statement 2613
projecting revenues and expenses for the first twelve months of 2614
the facility's operation; 2615

(E) A statement containing the following information 2616
regarding admissions to the facility: 2617

(1) The intended bed capacity of the facility; 2618

(2) If the facility will admit persons referred by or 2619
receiving services from an ADAMHS board or a mental health agency, 2620
the total number of beds anticipated to be occupied as a result of 2621
those admissions. 2622

(F) A nonrefundable license application fee in an amount 2623
established in rules adopted under section 5119.79 of the Revised 2624
Code. 2625

Section 2. That existing sections 109.57, 1337.11, 2133.01, 2626

2317.54, 3701.881, 3712.01, 3712.03, 3712.09, 3721.01, 3795.01,	2627
3963.01, 4719.01, 4752.02, 5119.70, and 5119.71 of the Revised	2628
Code are hereby repealed.	2629