

a need for the facility in the region of the state for which the facility is proposed to provide the function of an Ohio sports facility as provided for in this chapter. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine need but only in the affirmative.

(2) As an indication of substantial local support for the facility, the Ohio cultural facilities commission has received a financial and development plan satisfactory to it, and provision has been made, by agreement or otherwise, satisfactory to the Ohio cultural facilities commission, for a contribution amounting to not less than eighty-five per cent of the total estimated construction cost of the facility, excluding any site acquisition cost, from sources other than the state. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to evaluate the financial and development plan and the contribution and to determine their adequacy but only in the affirmative.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to state financing of all or a portion of the costs of constructing the facility. Authorization to spend money, or an appropriation, for planning or determining the feasibility of or need for the facility does not constitute authorization to spend money on, or an appropriation for, costs of constructing the facility.

(4) If state bond proceeds are being used for the Ohio sports facility, the state or a governmental agency owns or has sufficient property interests in the facility or in the site of the facility or in the portion or portions of the facility financed from proceeds of state bonds, which may include, but is not limited to, the right to use or to require the use of the facility for the presentation of sport and athletic events to the public at the facility.

(G) In addition to the requirements of division (F) of this section, no state funds, including any state bond proceeds, shall be spent on any Ohio sports facility that is a motorsports complex, unless, with respect to that facility, both of the following apply:

(1) Motorsports events shall be presented at the facility pursuant to a lease entered into with the owner of the facility. The term of the lease shall be for a period of not less than the greater of the useful life of the portion of the facility financed from proceeds of state bonds as determined using the guidelines for maximum maturities as provided under divisions (B) and (C) of section 133.20 of the Revised Code, or the period of time remaining to

the date of payment or provision for payment of outstanding state bonds allocable to costs of the facility, all as determined by the director of budget and management and certified by the director to the Ohio cultural facilities commission and to the treasurer of state.

(2) Any motorsports organization that commits to using the facility for an established period of time shall give the political subdivision in which the facility is located not less than six months' advance notice if the organization intends to cease utilizing the facility prior to the expiration of that established period. Such a motorsports organization shall be liable to the state for any state funds used on the construction costs of the facility.

(H) In addition to the requirements of division (F) of this section, no state bond proceeds shall be spent on any Ohio sports facility that is a tennis facility, unless the owner or manager of the facility provides contractual commitments from a national or international professional tennis organization in a form acceptable to the cultural facilities commission that assures that one or more sanctioned professional tennis events will be presented at the facility during each year that the bonds remain outstanding.

Sec. 3517.20. (A)(1) As used in this section:

(a) "Political publication for or against a candidate" means a notice, placard, advertisement, sample ballot, brochure, flyer, direct mailer, or other form of general publication that is designed to promote the nomination, election, or defeat of a candidate.

(b) "Political publication for or against an issue" means a notice, placard, advertisement, sample ballot, brochure, flyer, direct mailer, or other form of general publication that is designed to promote the adoption or defeat of a ballot issue or question or to influence the voters in an election.

(c) "Public political advertising" means newspapers, magazines, outdoor advertising facilities, direct mailings, or other similar types of general public political advertising, or flyers, handbills, or other nonperiodical printed matter.

(d) "Statewide candidate" has the same meaning as in section 3517.102 of the Revised Code.

(e) "Legislative candidate" means a candidate for the office of member of the general assembly.

(f) "Local candidate" means a candidate for an elective office of a political subdivision of this state.

(g) "Legislative campaign fund" has the same meaning as in section 3517.01 of the Revised Code.

(h) "Limited political action committee" means a political action committee of fewer than ten members.

(i) "Limited political contributing entity" means a political contributing entity of fewer than ten members.

(j) "Designated amount" means one hundred dollars in the case of a local candidate or a local ballot issue, two hundred fifty dollars in the case of a legislative candidate, or five hundred dollars in the case of a statewide candidate or a statewide ballot issue.

(k) "To issue" includes to print, post, distribute, reproduce for distribution, or cause to be issued, printed, posted, distributed, or reproduced for distribution.

(l) "Telephone bank" means more than five hundred telephone calls of an identical or substantially similar nature within any thirty-day period, whether those telephone calls are made by individual callers or by recording.

(2)(a) No candidate, ~~campaign committee~~, legislative campaign fund, political party, or other entity, except a political action committee ~~or a~~ political contributing entity, or a campaign committee, shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public political advertising, unless the name and residence or business address of the candidate or the chairperson, treasurer, or secretary of the ~~campaign committee~~, legislative campaign fund, political party, or other entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication appears in a conspicuous place on that political publication or is contained within that political communication.

(b) No campaign committee shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public political advertising, unless the name of the campaign committee appears in a conspicuous place on that political publication or is contained within that political communication.

(3) No limited political action committee or limited political contributing entity shall do either of the following unless the name and residence or business address of the chairperson, treasurer, or secretary of the limited political action committee or limited political contributing entity involved appears in a conspicuous place in the political publication for or against a candidate described in division (A)(3)(a) of this section or is contained within the political communication described in division (A)(3)(b) of this section:

(a) Issue a form of political publication for or against a candidate that

costs in excess of the designated amount or that is issued in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, a political contributing entity with ten or more members, or a limited political action committee or limited political contributing entity that spends in excess of the designated amount on a related or the same or similar political publication for or against a candidate;

(b) Make an expenditure in excess of the designated amount in support of or opposition to a candidate or make an expenditure in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, a political contributing entity with ten or more members, or a limited political action committee or limited political contributing entity that spends in excess of the designated amount in support of or opposition to the same candidate, for the purpose of financing political communications in support of or opposition to that candidate through public political advertising.

(4) No political action committee with ten or more members and no political contributing entity with ten or more members shall issue a form of political publication for or against a candidate, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a candidate through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the political action committee or political contributing entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication through public political advertising appears in a conspicuous place in that political publication or is contained within that political communication.

(5)(a) No corporation, labor organization, ~~campaign committee~~, legislative campaign fund, political party, or other entity, except a political action committee or a campaign committee, shall issue a form of political publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the corporation, labor organization, ~~campaign committee~~, legislative campaign fund, political party, or other entity that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication through public political

advertising appears in a conspicuous place in that political publication or is contained within that political communication.

(b) No campaign committee shall issue a form of political publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name of the campaign committee appears in a conspicuous place in that political publication or is contained within that political communication.

(6) No limited political action committee shall do either of the following unless the name and residence or business address of the chairperson, treasurer, or secretary of the limited political action committee involved appears in a conspicuous place in the political publication for or against a ballot issue described in division (A)(6)(a) of this section or is contained within the political communication described in division (A)(6)(b) of this section:

(a) Issue a form of political publication for or against a ballot issue that costs in excess of the designated amount or that is issued in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, or a limited political action committee that spends in excess of the designated amount for a related or the same or similar political publication for or against an issue;

(b) Make an expenditure in excess of the designated amount in support of or opposition to a ballot issue or make an expenditure in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a campaign committee, a legislative campaign fund, a political party, a political action committee with ten or more members, or a limited political action committee that spends in excess of the designated amount in support of or opposition to the same ballot issue, for the purpose of financing political communications in support of or opposition to that ballot issue through public political advertising.

(7) No political action committee with ten or more members shall issue a form of political publication for or against an issue, or shall make an expenditure for the purpose of financing political communications in support of or opposition to a ballot issue or question through public political advertising, unless the name and residence or business address of the chairperson, treasurer, or secretary of the political action committee that issues or otherwise is responsible for that political publication or that makes an expenditure for that political communication appears in a conspicuous place in that political publication or is contained within that political

communication.

(8) The disclaimer "paid political advertisement" is not sufficient to meet the requirements of this section.

(9) If the political publication described in division (A) of this section is issued by the regularly constituted central or executive committee of a political party that is organized as provided in this chapter, it shall be sufficiently identified if it bears the name of the committee and its chairperson or treasurer.

(10) If more than one piece of printed matter or printed political communications are mailed as a single packet, the requirements of division (A) of this section are met if one of the pieces of printed matter or printed political communications in the packet contains the name and residence or business address of the chairperson, treasurer, or secretary of the organization or entity that issues or is responsible for the printed matter or other printed political communications, except that if a campaign committee mails more than one piece of printed matter or printed political communications as a single packet, the requirements of division (A) of this section are met if one of the pieces of printed matter or printed political communications in the packet contains the name of the campaign committee.

(11) This section does not apply to the transmittal of personal correspondence that is not reproduced by machine for general distribution.

(12) The secretary of state, by rule, may exempt from the requirements of this section, printed matter and certain other kinds of printed communications such as campaign buttons, balloons, pencils, or similar items, the size or nature of which makes it unreasonable to add an identification or disclaimer.

(13) The disclaimer or identification described in division (A) of this section, when paid for by a campaign committee, shall be identified by the words "paid for by" followed by the name ~~and address~~ of the campaign committee and the appropriate officer of the committee, identified by name and title. The identification or disclaimer may use reasonable abbreviations for common terms such as "treasurer" or "committee".

(B)(1) No candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other entity shall utter or cause to be uttered, over the broadcasting facilities of any radio or television station within this state, any communication that is designed to promote the nomination, election, or defeat of a candidate, or the adoption or defeat of an issue or to influence the

voters in an election, unless the speaker identifies the speaker with the speaker's name and residence address or unless the communication identifies the chairperson, treasurer, or secretary of the organization responsible for the communication with the name and residence or business address of that officer, except that communications by radio need not broadcast the residence or business address of the officer. However, a radio station, for a period of at least six months, shall keep the residence or business address on file and divulge it to any person upon request.

No person operating a broadcast station or an organ of printed media shall broadcast or print a paid political communication that does not contain the identification required by this section.

(2) Division (B) of this section does not apply to any communications made on behalf of a radio or television station or network by any employee of such radio or television station or network while acting in the course of the employee's employment.

(3) No candidate or entity described in division (B)(1) of this section shall use or cause to be used a false, fictitious, or fraudulent name or address in the making or issuing of a publication or communication included within the provisions of this section.

(C) No candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other person or entity shall conduct a telephone bank for the purpose of promoting the nomination, election, or defeat of a candidate or the adoption or defeat of an issue or to influence the voters in an election, unless the call includes a disclaimer that identifies the name of the candidate, campaign committee, legislative campaign fund, political party, political action committee, limited political action committee, political contributing entity, limited political contributing entity, or other person or entity paying for the telephone bank.

(D) Before a prosecution may commence under this section, a complaint shall be filed with the Ohio elections commission under section 3517.153 of the Revised Code. After the complaint is filed, the commission shall proceed in accordance with sections 3517.154 to 3517.157 of the Revised Code.

Sec. 3701.021. (A) The public director of health council shall adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to carry out sections 3701.021 to 3701.0210 of the Revised Code, including, but not limited to, rules to establish the following:

(1) Medical and financial eligibility requirements for the program for medically handicapped children;

(2) Eligibility requirements for providers of services for medically handicapped children;

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A)(2) of this section;

(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;

(5) Standards for the provision of service coordination by the department of health and city and general health districts;

(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;

(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;

(8) Criteria for payment of approved providers who provide services for medically handicapped children;

(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;

(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;

(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;

(12) Eligibility requirements for the hemophilia program, including income and hardship requirements;

(13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas.

(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to 3701.0210 of the Revised Code.

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and

physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the ~~public director of health council~~ pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the department of health shall authorize a provider or providers to provide to any Ohio resident under twenty-one years of age, without charge to the resident or the resident's family and without restriction as to the economic status of the resident or the resident's family, diagnostic services necessary to determine whether the resident has a medically handicapping or potentially medically handicapping condition.

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the medical assistance program established under section 5111.01 of the Revised Code. No provider shall charge a medically handicapped child or the child's parent or guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization

to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the department may authorize payment of health insurance premiums on behalf of eligible children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost-effective.

(E) The department of health shall pay, from appropriations to the department, any necessary expenses, including but not limited to, expenses for diagnosis, treatment, service coordination, supportive services, transportation, and accessories and their upkeep, provided to medically handicapped children, provided that the provision of the goods or services is authorized by the department under division (B) or (D) of this section. Money appropriated to the department of health may also be expended for reasonable administrative costs incurred by the program. The department of health also may purchase liability insurance covering the provision of services under the program for medically handicapped children by physicians and other health care professionals.

Payments made to providers by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished to eligible recipients shall be made in accordance with rules adopted by the ~~public director of health council~~ pursuant to division (A) of section 3701.021 of the Revised Code.

The departments of health and job and family services shall jointly implement procedures to ensure that duplicate payments are not made under the program for medically handicapped children and the medical assistance program established under section 5111.01 of the Revised Code and to identify and recover duplicate payments.

(F) At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or the child's parent or guardian shall disclose the identity of any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all

third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medical assistance program established under section 5111.01 of the Revised Code shall be considered payment in full of the amount determined under division (E) of this section.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who have cystic fibrosis and who meet the eligibility requirements established by the ~~in~~ rules ~~of adopted by the public director of health council~~ pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with

rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

(J)(1) The department of health may establish a manufacturer discount program under which a manufacturer of a drug or nutritional formula is permitted to enter into an agreement with the department to provide a discount on the price of the drug or nutritional formula distributed to medically handicapped children participating in the program for medically handicapped children. The program shall be administered in accordance with rules adopted under section 3701.021 of the Revised Code.

(2) If a manufacturer enters into an agreement with the department as described in division (J)(1) of this section, the manufacturer and the department may negotiate the amount and terms of the discount.

(3) In lieu of establishing a discount program as described in division (J)(1) of this section, the department and a manufacturer of a drug or nutritional formula may discuss a donation of drugs, nutritional formulas, or money by the manufacturer to the department.

Sec. 3701.024. (A)(1) Under a procedure established in rules adopted under section 3701.021 of the Revised Code, the department of health shall determine the amount each county shall provide annually for the program for medically handicapped children, based on a proportion of the county's total general property tax duplicate, not to exceed one-tenth of a mill, and charge the county for any part of expenses incurred under the program for treatment services on behalf of medically handicapped children having legal settlement in the county that is not paid from federal funds or through the medical assistance program established under section 5111.01 of the Revised Code. The department shall not charge the county for expenses exceeding the difference between the amount determined under division (A)(1) of this section and any amounts retained under divisions (A)(2) and (3) of this section.

All amounts collected by the department under division (A)(1) of this section shall be deposited into the state treasury to the credit of the medically handicapped children-county assessment fund, which is hereby created. The fund shall be used by the department to comply with sections 3701.021 to 3701.028 of the Revised Code.

(2) The department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow each county to retain up to ten per cent of the amount determined under division (A)(1) of this section to provide funds to city or general health districts of the county with which the districts shall provide service coordination, public health nursing, or transportation services for medically handicapped children.

(3) In addition to any amount retained under division (A)(2) of this section, the department, in accordance with rules adopted under section 3701.021 of the Revised Code, may allow counties that it determines have significant numbers of potentially eligible medically handicapped children to retain an amount equal to the difference between:

(a) Twenty-five per cent of the amount determined under division (A)(1) of this section;

(b) Any amount retained under division (A)(2) of this section.

Counties shall use amounts retained under division (A)(3) of this section to provide funds to city or general health districts of the county with which the districts shall conduct outreach activities to increase participation in the program for medically handicapped children.

(4) Prior to any increase in the millage charged to a county, the public director of health council shall hold a public hearing on the proposed increase and shall give notice of the hearing to each board of county commissioners that would be affected by the increase at least thirty days prior to the date set for the hearing. Any county commissioner may appear and give testimony at the hearing. Any increase in the millage any county is required to provide for the program for medically handicapped children shall be determined, and notice of the amount of the increase shall be provided to each affected board of county commissioners, no later than the first day of June of the fiscal year next preceding the fiscal year in which the increase will take effect.

(B) Each board of county commissioners shall establish a medically handicapped children's fund and shall appropriate thereto an amount, determined in accordance with division (A)(1) of this section, for the county's share in providing medical, surgical, and other aid to medically handicapped children residing in such county and for the purposes specified in divisions (A)(2) and (3) of this section. Each county shall use money retained under divisions (A)(2) and (3) of this section only for the purposes specified in those divisions.

Sec. 3701.025. There is hereby created the medically handicapped children's medical advisory council consisting of twenty-one members to be appointed by the director of health for terms set in accordance with rules

adopted by the ~~public health council~~ director under division (A)(11) of section 3701.021 of the Revised Code. The medically handicapped children's medical advisory council shall advise the director regarding the administration of the program for medically handicapped children, the suitable quality of medical practice for providers, and the requirements for medical eligibility for the program.

All members of the council shall be licensed physicians, surgeons, dentists, and other professionals in the field of medicine, representative of the various disciplines involved in the treatment of children with medically handicapping conditions, and representative of the treatment facilities involved, such as hospitals, private and public health clinics, and private physicians' offices, and shall be eligible for the program.

Members of the council shall receive no compensation, but shall receive their actual and necessary travel expenses incurred in the performance of their official duties in accordance with the rules of the office of budget and management.

Sec. 3701.03. (A) The director of health shall perform duties that are incident to the director's position as chief executive officer of the department of health. The director shall administer the laws relating to health and sanitation and the rules of the department of health. The director may designate employees of the department and, during a public health emergency, other persons to administer the laws and rules on the director's behalf.

(B) Nothing in this section authorizes any action that prevents the fulfillment of duties or impairs the exercise of authority established by law for any other person or entity.

~~(C) The director shall prepare sanitary and public health rules for consideration by the public health council and submit to the council recommendations for new legislation. The director shall sit at meetings of the council but shall have no vote.~~

Sec. 3701.05. The director of health shall keep ~~the public health council~~, health officials, and the general public fully informed in a printed annual report in regard to the work of the department of health and on the progress that is being made in studying the cause and prevention of disease and such kindred subjects as may contribute to the welfare of the people of the state.

Sec. 3701.07. (A) The public director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code defining and classifying hospitals and dispensaries and providing for the reporting of information by hospitals and dispensaries. Except as otherwise provided in the Revised Code, the rules providing for the reporting of information shall

not require inclusion of any confidential patient data or any information concerning the financial condition, income, expenses, or net worth of the facilities other than that financial information already contained in those portions of the medicare or medicaid cost report that is necessary for the department of health to certify the per diem cost under section 3701.62 of the Revised Code. The rules may require the reporting of information in the following categories:

- (1) Information needed to identify and classify the institution;
- (2) Information on facilities and type and volume of services provided by the institution;
- (3) The number of beds listed by category of care provided;
- (4) The number of licensed or certified professional employees by classification;
- (5) The number of births that occurred at the institution the previous calendar year;
- (6) Any other information that the ~~council~~ director considers relevant to the safety of patients served by the institution.

Every hospital and dispensary, public or private, annually shall register with and report to the department of health. Reports shall be submitted in the manner prescribed in rules adopted under this division.

(B) Every governmental entity or private nonprofit corporation or association whose employees or representatives are defined as residents' rights advocates under divisions (E)(1) and (2) of section 3721.10 of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code ~~and to adult care facility managers as defined in section 5119.70 of the Revised Code.~~

Sec. 3701.072. (A) As used in this chapter:

(1) "Bioterrorism" has the same meaning as in section 3701.232 of the Revised Code.

(2) "Surveillance" in the public health service means the systematic collection, analysis, interpretation, and dissemination of health data on an ongoing basis, to gain knowledge of the pattern of disease occurrence and potential in a community in order to control and prevent disease in the community.

(3) "Trauma center" has the same meaning as in section 4765.01 of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code that require a trauma center to report information to the director of health describing the trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. The ~~council's~~ director's rules may require the reporting of any information the ~~council~~ director considers necessary for an accurate description of a trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. Information reported pursuant to this division is not a public record under section 149.43 of the Revised Code.

(C) Upon request, the department of health shall provide a summary report of the ~~public health council's~~ rules adopted pursuant to this section.

(D) The director shall review all information received pursuant to this section. After reviewing the information, the director may conduct an evaluation of a trauma center's preparedness and capacity to respond to disasters, mass casualties, and bioterrorism. An evaluation conducted pursuant to this division is not a public record under section 149.43 of the Revised Code.

Sec. 3701.11. The director of health ~~and the secretary of the public health council~~ shall have power to administer oaths in all parts of the state so far as the exercise of such power is incidental to the performance of the duties of the director ~~or of the council~~.

Sec. 3701.132. The department of health is hereby designated as the state agency to administer the "special supplemental nutrition program for women, infants, and children" established under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended. The ~~public~~ director of health ~~council~~ may adopt rules pursuant to Chapter 119. of the Revised Code as necessary for administering the program. The rules may include civil money penalties for violations of the rules.

In determining eligibility for services provided under the program, the department may use the application form established under section 5111.013 of the Revised Code for the healthy start program. The department may require applicants to furnish their social security numbers.

If the department determines that a vendor has committed an act with respect to the program that federal statutes or regulations or state statutes or rules prohibit, the department shall take action against the vendor in the manner required by 7 C.F.R. part 246, including imposition of a civil money penalty in accordance with 7 C.F.R. 246.12, or rules adopted under this

section.

Sec. 3701.146. (A) In taking actions regarding tuberculosis, the director of health has all of the following duties and powers:

(1) The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure to tuberculosis.

(2) The director shall engage in tuberculosis surveillance activities, including the collection and analysis of epidemiological information relative to the frequency of tuberculosis infection, demographic and geographic distribution of tuberculosis cases, and trends pertaining to tuberculosis.

(3) The director shall maintain a tuberculosis registry to record the incidence of tuberculosis in this state.

(4) The director may appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the director. Each tuberculosis consultant shall act in accordance with rules the director establishes and shall be responsible for advising and assisting physicians and other health care practitioners who participate in tuberculosis control activities and for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.

(B)(1) The ~~public health council~~ director shall adopt rules establishing standards for the following:

- (a) Performing tuberculosis screenings;
- (b) Performing examinations of individuals who have been exposed to tuberculosis and individuals who are suspected of having tuberculosis;
- (c) Providing treatment to individuals with tuberculosis;
- (d) Preventing individuals with communicable tuberculosis from infecting other individuals;
- (e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs;
- (f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state.

(2) Rules adopted pursuant to this section shall be adopted in accordance with Chapter 119. of the Revised Code and may be consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis.

Sec. 3701.161. The director of health shall make necessary arrangements for the production and distribution of diphtheria antitoxin. Such antitoxin shall in all respects be equal in purity and potency to the standard of requirements of the United States public health service for antitoxin for interstate commerce. Diphtheria antitoxin shall be distributed in accordance with rules the ~~public health council~~ director adopts pursuant to Chapter 119. of the Revised Code.

Sec. 3701.20. (A) In accordance with rules adopted ~~by the public health council~~, under division (C) of this section, the director of health shall establish, promote, and maintain the Ohio poison control network; designate regions within the network; and designate poison prevention and treatment centers within each region. The purposes of the network are to:

(1) Reduce the mortality resulting from and the expenditures incurred because of accidental, homicidal, suicidal, occupational, or environmental poisoning;

(2) Educate the public and health care professionals concerning the prevention and treatment of exposure to poison;

(3) Organize poison prevention and treatment activities on a regional basis to avoid duplication and waste.

(B) To be eligible for designation as a poison prevention and treatment center and to retain the designation, a center must maintain compliance with the standards established by the ~~public health council~~ director pursuant to division (C) of this section. A poison prevention and treatment center may be operated by an individual, hospital, institution of higher education, political subdivision, association, corporation, or public or private agency.

(C) In accordance with Chapter 119. of the Revised Code, the ~~public health council~~ director shall adopt rules that do the following:

(1) Establish guidelines, based on population density and other relevant factors, and procedures to be followed ~~by the director of health~~ in designating poison control network regions and centers;

(2) Establish standards for the operation of poison prevention and treatment centers;

(3) Establish standards and procedures to be followed ~~by the director of health~~ in making grants to poison prevention and treatment centers;

(4) Establish procedures, other than those prescribed by Chapter 119. of the Revised Code, for reconsideration, at the request of the entity affected, of the denial or revocation of a designation as a poison prevention and treatment center.

(D) In accordance with rules adopted ~~by the public health council~~ under division (C) of this section, the director of health shall make grants to poison

prevention and treatment centers. A center is not eligible for a grant unless, prior to receiving the grant, the entity that operates the center agrees in writing that the level of the total funds, labor, and services devoted by the entity to the center during the period of the grant will approximate, as determined by the director of health, the level of the total funds, labor, and services devoted to the center by that entity in the fiscal year preceding the fiscal year in which the grant begins.

(E) Each poison prevention and treatment center shall do all of the following:

(1) Maintain and staff a twenty-four-hour per day, toll-free, telephone line to respond to inquiries and provide information about poison prevention and treatment and available services;

(2) Provide specialized treatment, consultation, information, and educational programs to health care professionals and the public;

(3) Compile information on the types and frequency of treatment it provides.

A center may provide the services described in divisions (E)(1) and (2) of this section either directly or through contract with other facilities, as the director of health considers appropriate. Each center shall take measures to ensure the confidentiality of information about individuals to whom treatment or services are provided.

(F) The director of health may revoke the designation of a poison treatment and control center, or deny an application for designation, if the center or applicant fails to meet or maintain the standards established ~~by rule of the public health council in rules adopted under division (C) of this section~~. The entity seeking the designation may have the revocation or denial reconsidered in accordance with rules adopted ~~by the public health council under division (C) of this section~~.

(G)(1) A poison prevention and treatment center, its officers, employees, volunteers, or other persons associated with the center, and a person, organization, or institution that advises or assists a poison prevention and treatment center are not liable in damages in a tort action for harm that allegedly arises from advice or assistance rendered to any person unless the advice or assistance is given in a manner that constitutes willful or wanton misconduct or intentionally tortious conduct.

(2) This section does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a poison prevention and treatment center, its officers, employees, volunteers, or other persons associated with the center, or a person, organization, or institution that advises or assists a poison prevention and treatment center.

(3) This section does not affect, and shall not be construed as affecting, any immunities from civil liability or defenses conferred by any other section of the Revised Code or available at common law, to which a poison prevention and treatment center, its officers, employees, volunteers, or other persons associated with the center or a person, organization, or institution that advises or assists a poison prevention and treatment center may be entitled under circumstances not specified by this section.

(H) The director shall annually report to the general assembly findings and recommendations concerning the effectiveness, impact, and benefits of the poison prevention and treatment centers.

Sec. 3701.201. (A) As used in this section, "bioterrorism" has the same meaning as in section 3701.232 of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code under which a poison prevention and treatment center or other health-related entity is required to report events that may be caused by bioterrorism, epidemic or pandemic disease, or established or novel infectious agents or biological or chemical toxins posing a risk of human fatality or disability. Rules adopted under this section may require a report of any of the following:

(1) An unexpected pattern or increase in the number of telephone inquiries or requests to provide information about poison prevention and treatment and available services;

(2) An unexpected pattern or increase in the number of requests to provide specialized treatment, consultation, information, and educational programs to health care professionals and the public;

(3) An unexpected pattern or increase in the number of requests for information on established or novel infectious agents or biological or chemical toxins posing a risk of human fatality or disability that is relatively uncommon and may have been caused by bioterrorism.

(C) Each poison prevention and treatment center and other health-related entity shall comply with any reporting requirement established in rules adopted under division (B) of this section.

(D) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.21. (A) As used in this section:

(1) "Amblyopia" means reduced vision in an eye that has not received adequate use during early childhood.

(2) "501(c) organization" means an organization exempt from federal income taxation pursuant to 26 U.S.C.A. 501(a) and (c).

(B) There is hereby created in the state treasury the save our sight fund. The fund shall consist of voluntary contributions deposited as provided in section 4503.104 of the Revised Code. All investment earnings from the fund shall be credited to the fund.

(C) The director of health shall use the money in the save our sight fund as follows:

(1) To provide support to 501(c) organizations that offer vision services in all counties of the state and have demonstrated experience in the delivery of vision services to do one or more of the following:

(a) Implement a voluntary children's vision screening training and certification program for volunteers, child care providers, nurses, teachers, health care professionals practicing in primary care settings, and others serving children;

(b) Provide materials for the program implemented under division (C)(1)(a) of this section;

(c) Develop and implement a registry and targeted voluntary case management system to determine whether children with amblyopia are receiving professional eye care and to provide their parents with information and support regarding their child's vision care;

(d) Establish a matching grant program for the purchase and distribution of protective eyewear to children;

(e) Provide vision health and safety programs and materials for classrooms.

(2) For the purpose of section 4503.104 of the Revised Code, to develop and distribute informational materials on the importance of eye care and safety to the registrar of motor vehicles and each deputy registrar;

(3) To pay costs incurred by the director in administering the fund;

(4) To reimburse the bureau of motor vehicles for the administrative costs incurred in performing its duties under section 4503.104 of the Revised Code.

(D) A 501(c) organization seeking funding from the save our sight fund for any of the projects specified in division (C) of this section shall submit a request for the funding to the director in accordance with rules adopted under division (E) of this section. The director shall determine the appropriateness of and approve or disapprove projects for funding and approve or disapprove the disbursement of money from the save our sight fund.

(E) The ~~public health council~~ director shall adopt rules in accordance

with Chapter 119. of the Revised Code to implement this section. The rules shall include the parameters of the projects specified in division (C)(1) of this section that may be funded with money in the save our sight fund and procedures for 501(c) organizations to request funding from the fund.

Sec. 3701.221. (A) The director of health shall have charge of the public health laboratory authorized by section 3701.22 of the Revised Code. The director may employ an assistant for the laboratory who shall be a person skilled in chemistry and bacteriology, and receive compensation as the director determines. All expenses of the laboratory shall be paid from appropriations made for the department of health.

(B) The ~~public health council~~ director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend or rescind, rules establishing reasonable fees for services the laboratory performs. The ~~council~~ director need not prescribe fees where the ~~council~~ director believes that charging fees would significantly and adversely affect the public health. All fees collected for services the laboratory performs shall be deposited into the state treasury to the credit of the "laboratory handling fee fund," which is hereby created for the purpose of defraying expenses of operating the laboratory.

Sec. 3701.23. (A) As used in this section, "health care provider" means any person or government entity that provides health care services to individuals. "Health care provider" includes, but is not limited to, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, registered and licensed practical nurses, laboratory technicians, emergency medical service organization personnel, and ambulance service organization personnel.

(B) Boards of health, health authorities or officials, health care providers in localities in which there are no health authorities or officials, and coroners or medical examiners shall report promptly to the department of health the existence of any of the following:

- (1) Asiatic cholera;
- (2) Yellow fever;
- (3) Diphtheria;
- (4) Typhus or typhoid fever;

(5) As specified by the ~~public~~ director of health ~~council~~, other contagious or infectious diseases, illnesses, health conditions, or unusual infectious agents or biological toxins posing a risk of human fatality or disability.

(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.

(D) The reports required by this section shall be submitted on forms, as required by statute or rule, and in the manner the director of health prescribes.

(E) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.232. (A) As used in this section:

(1) "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, animal, plant, or other living organism as a means of influencing the conduct of government or intimidating or coercing a population.

(2) "Pharmacist" means an individual licensed under Chapter 4729. of the Revised Code to engage in the practice of pharmacy as a pharmacist.

(3) "Pharmacy" and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code under which a pharmacy or pharmacist is required to report significant changes in medication usage that may be caused by bioterrorism, epidemic or pandemic disease, or established or novel infectious agents or biological toxins posing a risk of human fatality or disability. Rules adopted under this section may require a report of any of the following:

(1) An unexpected increase in the number of prescriptions for antibiotics;

(2) An unexpected increase in the number of prescriptions for medication to treat fever or respiratory or gastrointestinal complaints;

(3) An unexpected increase in sales of, or the number of requests for information on, over-the-counter medication to treat fever or respiratory or gastrointestinal complaints;

(4) Any prescription for medication used to treat a disease that is relatively uncommon and may have been caused by bioterrorism.

(C) No person shall fail to comply with any reporting requirement established in rules adopted under division (B) of this section.

(D) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be

released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.24. (A) As used in this section and sections 3701.241 to 3701.249 of the Revised Code:

(1) "AIDS" means the illness designated as acquired immunodeficiency syndrome.

(2) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

(3) "AIDS-related condition" means symptoms of illness related to HIV infection, including AIDS-related complex, that are confirmed by a positive HIV test.

(4) "HIV test" means any test for the antibody or antigen to HIV that has been approved by the director of health under division (B) of section 3701.241 of the Revised Code.

(5) "Health care facility" has the same meaning as in section 1751.01 of the Revised Code.

(6) "Director" means the director of health or any employee of the department of health acting on the director's behalf.

(7) "Physician" means a person who holds a current, valid certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine or surgery and osteopathic medicine and surgery.

(8) "Nurse" means a registered nurse or licensed practical nurse who holds a license or certificate issued under Chapter 4723. of the Revised Code.

(9) "Anonymous test" means an HIV test administered so that the individual to be tested can give informed consent to the test and receive the results by means of a code system that does not link the identity of the individual tested to the request for the test or the test results.

(10) "Confidential test" means an HIV test administered so that the identity of the individual tested is linked to the test but is held in confidence to the extent provided by sections 3701.24 to 3701.248 of the Revised Code.

(11) "Health care provider" means an individual who provides diagnostic, evaluative, or treatment services. Pursuant to Chapter 119. of the Revised Code, the ~~public health council~~ director may adopt rules further defining the scope of the term "health care provider."

(12) "Significant exposure to body fluids" means a percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another individual.

(13) "Emergency medical services worker" means all of the following:

- (a) A peace officer;
- (b) An employee of an emergency medical service organization as defined in section 4765.01 of the Revised Code;
- (c) A firefighter employed by a political subdivision;
- (d) A volunteer firefighter, emergency operator, or rescue operator;
- (e) An employee of a private organization that renders rescue services, emergency medical services, or emergency medical transportation to accident victims and persons suffering serious illness or injury.

(14) "Peace officer" has the same meaning as in division (A) of section 109.71 of the Revised Code, except that it also includes a sheriff and the superintendent and troopers of the state highway patrol.

(B) Persons designated by rule adopted by the ~~public health council~~ director under section 3701.241 of the Revised Code shall report promptly every case of AIDS, every AIDS-related condition, and every confirmed positive HIV test to the department of health on forms and in a manner prescribed by the director. In each county the director shall designate the health commissioner of a health district in the county to receive the reports.

(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.

(D) Information reported under this section that identifies an individual is confidential and may be released only with the written consent of the individual except as the director determines necessary to ensure the accuracy of the information, as necessary to provide treatment to the individual, as ordered by a court pursuant to section 3701.243 or 3701.247 of the Revised Code, or pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, prosecuting attorney, city director of law or similar chief legal officer of a municipal corporation, or village solicitor, in connection with a criminal investigation or prosecution. Information that does not identify an individual may be released in summary, statistical, or aggregate form.

Sec. 3701.241. (A) The director of health shall develop and administer the following:

- (1) A surveillance system to determine the number of cases of AIDS and the HIV infection rate in various population groups;
- (2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines;
- (3) A confidential partner notification system to alert and counsel sexual

contacts of individuals with HIV infection;

(4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public;

(5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes and in alternative settings;

(6) Programs to expand regional outpatient treatment of individuals with AIDS or AIDS-related condition;

(7) A program to assist communities, including communities of less than one hundred thousand population, in establishing AIDS task forces and support groups for individuals with AIDS, AIDS-related condition, and HIV infection. The program may include the award of grants if they are matched by local funds.

Information obtained or maintained under the partner notification system is not a public record under section 149.43 of the Revised Code and may be released only in accordance with division (C) of section 3701.243 of the Revised Code.

(B) The director shall:

(1) Approve a test or tests to be used to determine whether an individual has HIV infection, define a confirmed positive test result, and develop guidelines for interpreting test results;

(2) Establish sites for confidential and anonymous HIV tests, and prepare a list of sites where an individual may obtain an anonymous test;

(3) Prepare a list of counseling services;

(4) Make available a copy of the list of anonymous testing sites or a copy of the list of counseling services to anyone who requests it.

(C) The director of health shall require the director or administrator of each site where anonymous or confidential HIV tests are given to submit a report every three months evaluating from an epidemiologic perspective the effectiveness of the HIV testing program at that site. Not later than January 31, 1991, and each year thereafter, the director of health shall make a report evaluating the anonymous and confidential testing programs throughout the state with regard to their effectiveness as epidemiologic programs. The report shall be submitted to the speaker of the house of representatives and the president of the senate and shall be made available to the public.

The ~~public~~ director of health ~~council~~ shall adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of the requirements of division (B)(1) of this section and division (D) of section 3701.24 of the Revised Code.

(D) The director of health shall administer funds received under Title XXVI of the "Public Health Services Act," 104 Stat. 576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve the quality and availability of care for individuals with AIDS, AIDS-related condition, and HIV infection. In administering these funds, the director may enter into contracts with any person or entity for the purpose of administering the programs, including contracts with the department of job and family services for establishment of a program of reimbursement of drugs used for treatment and care of such individuals. The director of health may adopt rules in accordance with Chapter 119. of the Revised Code and issue orders as necessary for administration of the funds. If the department of job and family services enters into a contract under this division, the director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for carrying out the department's duties under the contract.

Sec. 3701.242. (A) An HIV test may be performed by or on the order of a health care provider who, in the exercise of the provider's professional judgment, determines the test to be necessary for providing diagnosis and treatment to the individual to be tested, if the individual or the individual's parent or guardian has given consent to the provider for medical or other health care treatment. The health care provider shall inform the individual of the individual's right under division (D) of this section to an anonymous test.

(B) A minor may consent to be given an HIV test. The consent is not subject to disaffirmance because of minority. The parents or guardian of a minor giving consent under this division are not liable for payment and shall not be charged for an HIV test given to the minor without the consent of a parent or the guardian.

(C) The health care provider ordering an HIV test shall provide post-test counseling for an individual who receives an HIV-positive test result. The ~~public director of health council~~ may adopt rules, ~~pursuant to recommendations from the director of health and~~ in accordance with Chapter 119. of the Revised Code, specifying the information to be provided in post-test counseling.

(D) An individual shall have the right to an anonymous test. A health care facility or health care provider that does not provide anonymous testing shall refer an individual requesting an anonymous test to a site where it is available.

(E) Divisions (B) to (D) of this section do not apply to the performance of an HIV test in any of the following circumstances:

(1) When the test is performed in a medical emergency by a nurse or

physician and the test results are medically necessary to avoid or minimize an immediate danger to the health or safety of the individual to be tested or another individual, except that post-test counseling shall be given to the individual if the individual receives an HIV-positive test result;

(2) When the test is performed for the purpose of research if the researcher does not know and cannot determine the identity of the individual tested;

(3) When the test is performed by a person who procures, processes, distributes, or uses a human body part from a deceased person donated for a purpose specified in Chapter 2108. of the Revised Code, if the test is medically necessary to ensure that the body part is acceptable for its intended purpose;

(4) When the test is performed on a person incarcerated in a correctional institution under the control of the department of rehabilitation and correction if the head of the institution has determined, based on good cause, that a test is necessary;

(5) When the test is performed in accordance with section 2907.27 of the Revised Code;

(6) When the test is performed on an individual after the infection control committee of a health care facility, or other body of a health care facility performing a similar function determines that a health care provider, emergency medical services worker, or peace officer, while rendering health or emergency care to an individual, has sustained a significant exposure to the body fluids of that individual, and the individual has refused to give consent for testing.

Sec. 3701.248. (A) As used in this section:

(1) "Contagious or infectious disease" means a disease specified ~~by rule~~ in rules adopted by the ~~public director of health council~~ pursuant to division (F) of this section.

(2) "Patient" means either of the following:

(a) A person, whether alive or dead, who has been treated, or handled, or transported for medical care by an emergency medical services worker;

(b) A deceased person whose body is handled by a funeral services worker.

(3) "Significant exposure" means:

(a) A percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another person;

(b) Exposure to a contagious or infectious disease.

(4) "Funeral services worker" means a person licensed as a funeral

director or embalmer under Chapter 4717. of the Revised Code or an individual responsible for the direct final disposition of a deceased person.

(B)(1) An emergency medical services worker or funeral services worker who believes that significant exposure has occurred through the worker's contact with a patient may submit to the health care facility or coroner that received the patient a written request to be notified of the results of any test performed on the patient to determine the presence of a contagious or infectious disease. The request shall include:

(a) The name, address, and telephone number of the individual submitting the request;

(b) The name of the individual's employer, or, in the case of a volunteer emergency medical services worker, the entity for which the worker volunteers, and the individual's supervisor;

(c) The date, time, location, and manner of the exposure.

(2) The request for notification that is submitted by an emergency medical services worker pursuant to division (B)(1) of this section is valid for ten days after it is made. If at the end of that ten-day period no test has been performed to determine the presence of a contagious or infectious disease, no diagnosis has been made, or the result of the test is negative, the health care facility or coroner shall notify the emergency medical services worker. The notification shall not include the name of the patient. If necessary, the request may be renewed in accordance with the same procedures and requirements as the original request.

(3) A health care facility or coroner shall respond immediately to a request for notification submitted pursuant to division (B)(1) of this section by a funeral services worker. If no test has been performed to determine the presence of a contagious or infectious disease, no diagnosis has been made, or the result of a test that was performed is negative, the health care facility or coroner shall immediately notify the funeral services worker. The notification shall not include the name of the patient.

On receipt of notification that no test has been performed to determine the presence of a contagious or infectious disease in a patient, the funeral services worker may have a test performed on the patient. The test shall be performed in accordance with rules adopted by the department of health pursuant to division (G) of this section.

The consent of the patient's family is not required for performance of a test pursuant to division (B)(3) of this section.

(C) The health care facility or coroner that receives a written request for notification shall give an oral notification of the presence of a contagious or infectious disease, or of a confirmed positive test result, if known, to the

person who made the request and the person's supervisor and to the infection control committee or other body described in division (E)(6) of section 3701.242 of the Revised Code within two days after determining the presence of a contagious or infectious disease or after a confirmed positive test result. A written notification shall follow oral notification within three days. If a contagious or infectious disease is present, or the test results are confirmed positive, both the oral and written notification shall include the name of the disease, its signs and symptoms, the date of exposure, the incubation period, the mode of transmission of the disease, the medical precautions necessary to prevent transmission to other persons, and the appropriate prophylaxis, treatment, and counseling for the disease. The notification shall not include the name of the patient.

If the request is made by an emergency medical services worker and the information is not available from the health care facility to which the request is made because the patient has been transferred from that health care facility, the facility shall assist the emergency medical services worker in locating the patient and securing the requested information from the health care facility that treated or is treating the patient. If the patient has died, the health care facility shall give the emergency medical services worker the name and address of the coroner who received the patient.

(D) Each health care facility and coroner shall develop written procedures to implement the notification procedures required by this section. A health care facility or coroner may take measures in addition to those required in this section to notify emergency medical services workers and funeral services workers of possible exposure to a contagious or infectious disease as long as the confidentiality of the information is maintained.

(E) No person shall knowingly fail to comply with division (C) of this section.

(F) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the diseases that are reasonably likely to be transmitted by air or blood during the normal course of duties performed by an emergency medical services worker or funeral services worker. In adopting such rules, the ~~council~~ director shall consider the types of contact that typically occur between patients and emergency medical services workers and funeral services workers.

(G) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the procedures a funeral services worker must follow when having a test performed on a patient pursuant to division (B)(3) of this section. The rules shall specify how and

by whom the test is to be performed. The rules shall require the funeral services worker or the funeral services worker's employer to pay the cost of the test. No health care facility shall be required to perform the test.

Sec. 3701.33. (A) There is hereby created the Ohio public health advisory board. The board shall consist of the following members:

(1) The following members appointed by the director of health from among individuals who are not employed by the state and are recommended by statewide trade or professional organizations that represent interests in public health:

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

(b) One individual authorized under Chapter 4723. of the Revised Code to practice nursing as a registered nurse;

(c) Three members of the public, two of whom are representatives of entities licensed by the department of health or boards of health.

(2) One representative of the association of Ohio health commissioners, appointed by the association;

(3) One representative of the Ohio public health association, appointed by the association;

(4) One representative of the Ohio environmental health association, appointed by the association, who is registered as a sanitarian under Chapter 4736. of the Revised Code;

(5) One representative of the Ohio association of boards of health, appointed by the association;

(6) One representative of the Ohio society for public health education, appointed by the society;

(7) One representative of the Ohio hospital association, appointed by the association.

The director of health or the director's designee shall serve as an ex officio, nonvoting member of the board.

(B) Not later than thirty days after the effective date of this section, initial appointments shall be made to the board. Of the initial appointments, the members specified in divisions (A)(5), (6), and (7) and division (A)(1)(c) of this section representing entities licensed by the department of health or boards of health shall serve terms ending June 30, 2014, and the members specified in divisions (A)(1)(a) and (b), divisions (A)(2), (3), and (4), and division (A)(1)(c) of this section not representing entities licensed by the department or boards of health shall serve terms ending June 30, 2015. Thereafter, terms of office for all members shall be three years, with each term ending on the same day of the same month as the term it

succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed, except that no member who has served two consecutive terms may be reappointed until three years have elapsed since the member's last term ended.

Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner as original appointments.

Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of ninety days has elapsed, whichever occurs first.

(C) The board shall annually select from among its members a chairperson and vice-chairperson. The director shall designate an officer or employee of the department to act as the board's secretary. The secretary shall be a nonvoting board member.

The board may adopt by laws governing its operation. The chairperson may appoint subcommittees as the chairperson considers necessary.

(D) The board shall meet at the call of the chairperson, but not less than four times per year. A majority of the members of the board constitutes a quorum. Special meetings may be called by the chairperson and shall be called by the chairperson at the request of the director. In a request for a special meeting, the director shall specify the purpose of the meeting and the date and place the meeting is to be held. No other business shall be considered at a special meeting except by a unanimous vote of members present at the meeting.

In conducting any meeting, the board and its subcommittees may use an interactive video teleconferencing system. If provisions are made that allow public attendance at a designated location with respect to a meeting using such a system, the board members who attend the meeting by video teleconference shall be counted for purposes of determining whether a quorum is present and shall be permitted to vote.

Members shall be expected to attend a majority of meetings of the board. Unexcused absence from three consecutive meetings shall be considered notice of a member's intent to resign from the board.

(E)(1) The department shall provide meeting space and staff and other administrative support for the board to carry out its duties.

(2) To facilitate the board's review of proposed rules under division

(A)(1) of section 3701.34 of the Revised Code, the department shall establish and maintain an electronic web-based database of board meeting agendas, board meeting minutes, proposed rules, public comments, and other documents relevant to the work of the board.

(F) Notice of meetings shall be provided to members through the board's mailing list, the department's web site, or any other means available to the board.

The minutes of previous meetings, the next meeting's agenda, and information on any matters to be presented to the board at any regular or special meeting shall be provided to the board in an electronic format.

(G) Members shall attend annual ethics training provided by the Ohio ethics commission.

(H) Members shall serve without compensation, but may be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(I) Sections 101.82 to 101.87 of the Revised Code do not apply to the Ohio public health advisory board.

Sec. 3701.34. (A) The Ohio public health advisory board shall review and make recommendations to the director of health on all of the following:

(1) Developing and adopting proposed rules under Chapters 3701 and 3717 of the Administrative Code;

(2) Prescribing proposed fees for services provided by the office of vital statistics and the bureau of environmental health;

(3) Issues to improve public health and increase awareness of public health issues at the state level, local level, or both;

(4) Any other public health issues that the director requests the board to consider.

(B) In making recommendations to the director under division (A)(1) of this section, all of the following apply:

(1) Prior to filing a proposed rule with the joint committee on agency rule review, the department of health shall provide each board member with a copy of the proposed rule, copies of public comments received by the department during the public comment period, and written evidence of stakeholder involvement.

(2) Prior to board meetings, copies of proposed rules shall be provided to members. On request of a member, the department shall ensure that appropriate department employees attend board meetings to answer questions concerning proposed rules.

(3)(a) Not later than sixty days after receiving a copy of a proposed rule, the board shall recommend approval or disapproval of the rule and submit

its recommendation by board action to the director. In making its recommendation, the board may consider public comments provided to the department or the board.

(b) If the board fails to make a recommendation within sixty days of receiving a copy of the proposed rule, the director may file the proposed rule.

(4) Except as provided in division (B)(3)(b) of this section, the director shall consider the board's recommendation before filing a proposed rule. On request of the board, the director shall meet with the board to discuss the board's recommendation.

(5) If the director disagrees with the board's recommendation, the director shall inform the board in writing of the director's decision and the reason for the decision prior to the next quarterly meeting. The director or the director's designee may meet with the board at the next quarterly meeting to answer questions regarding why the director disagreed with the board's recommendation.

(C) To the extent the board believes that a proposed rule does not comply with requirements established by the joint committee on agency rule review or the common sense initiative office, nothing in this section prohibits the board, in carrying out its duties under division (A)(1) of this section, from contacting the joint committee on agency rule review or the common sense initiative office.

(D) In making recommendations under division (A)(2) of this section for prescribing proposed fees for services provided by the bureau of environmental health, the board and the department shall develop a cost methodology subject to approval by the director.

(E) This section does not apply to the following:

(1) A proposed rule that is to be refiled with the joint committee on agency rule review solely because of technical or other nonsubstantive revisions;

(2) The emergency adoption, amendment, or rescission of a rule under division (F) of section 119.03 of the Revised Code.

Sec. 3701.341. (A) The ~~public~~ director of health ~~council~~, pursuant to Chapter 119. and consistent with section 2317.56 of the Revised Code, shall adopt rules relating to abortions and the following subjects:

(1) Post-abortion procedures to protect the health of the pregnant woman;

(2) Pathological reports;

(3) Humane disposition of the product of human conception;

(4) Counseling.

(B) The director of health shall implement the rules and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of the rules. This action is an additional remedy not dependent on the adequacy of the remedy at law.

Sec. 3701.342. After consultation with the public health standards task force established under section 3701.343 of the Revised Code, the ~~public health council~~ director of health shall adopt rules establishing minimum standards and optimum achievable standards for boards of health and local health departments. The minimum standards shall assure that boards of health and local health departments provide for:

- (A) Analysis and prevention of communicable disease;
- (B) Analysis of the causes of, and appropriate treatment for, the leading causes of morbidity and mortality;
- (C) The administration and management of the local health department;
- (D) Access to primary health care by medically underserved individuals;
- (E) Environmental health management programs;
- (F) Health promotion services designed to encourage individual and community wellness.

The ~~public health council~~ director shall adopt rules establishing a formula for distribution of state health district subsidy funds to boards of health and local health departments. The formula shall provide no subsidy funds to a board or department unless it meets minimum standards and shall provide higher funding levels for boards and districts that meet optimum achievable standards.

Notwithstanding section 119.03 of the Revised Code, rules adopted under this section shall not take effect unless approved by concurrent resolution of the general assembly.

Sec. 3701.343. The ~~chairman~~ director of the ~~public health council~~ shall, with the advice of the association of Ohio health commissioners ~~and the director of health~~, appoint a public health standards task force to assist and advise the ~~public health council~~ director in formulating and evaluating the standards established under section 3701.342 of the Revised Code for the provision of public health services. ~~The task force shall recommend its standards for all categories mentioned in section 3701.342 of the Revised Code on or before March 1, 1983.~~

The task force shall have nine members, consisting of:

- (A) A sanitarian registered in accordance with Chapter 4736. of the Revised Code;
- (B) A registered nurse licensed in accordance with Chapter 4723. of the Revised Code;

(C) A physician ~~licensed in accordance with~~ who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(D) Three health commissioners;

(E) Two representatives of the department of health;

(F) One individual with recognized ability in public health law, public health laboratories, epidemiology, nutrition, or health education.

~~The public health standards task force shall complete its work within three years after the effective date of this section and shall cease to exist upon completion of its work, provided, that the public health council may reconstitute the public health standards task force, for the purpose of reviewing, evaluating, and revising the standards mandated in section 3701.342 of the Revised Code.~~

Members of the task force shall elect a ~~chairman~~ chairperson. Five members of the task force constitute a quorum and six votes are necessary to validate an action.

~~Within ninety days of the effective date of this section, the chairman of the public health council shall make the appointments to the task force. Within sixty days of their appointment, the task force members shall meet, organize, and begin their work. Vacancies occurring on the task force shall be filled in the same manner as the initial appointments.~~

Members of the task force shall serve without compensation, but may be reimbursed for necessary expenses.

Sec. 3701.344. As used in this section and sections 3701.345, 3701.346, and 3701.347 of the Revised Code:

(A) "Private water system" means any water system for the provision of water for human consumption, if such system has fewer than fifteen service connections and does not regularly serve an average of at least twenty-five individuals daily at least sixty days out of the year. A private water system includes any well, spring, cistern, pond, or hauled water and any equipment for the collection, transportation, filtration, disinfection, treatment, or storage of such water extending from and including the source of the water to the point of discharge from any pressure tank or other storage vessel; to the point of discharge from the water pump where no pressure tank or other storage vessel is present; or, in the case of multiple service connections serving more than one dwelling, to the point of discharge from each service connection. "Private water system" does not include the water service line extending from the point of discharge to a structure.

(B) Notwithstanding section 3701.347 of the Revised Code and subject to division (C) of this section, rules adopted by the ~~public~~ director of health

~~council~~ regarding private water systems shall provide for the following:

(1) Except as otherwise provided in this division, boards of health of city or general health districts shall be given the exclusive power to establish fees in accordance with section 3709.09 of the Revised Code for administering and enforcing such rules. Such fees shall establish a different rate for administering and enforcing the rules relative to private water systems serving single-family dwelling houses and nonsingle-family dwelling houses. Except for an amount established by the ~~public health council~~ director, pursuant to division (B)(5) of this section, for each new private water system installation, no portion of any fee for administering and enforcing such rules shall be returned to the department of health. If the director of health determines that a board of health of a city or general health district is unable to administer and enforce a private water system program in the district, the director shall administer and enforce such a program in the district and establish fees for such administration and enforcement.

(2) Boards of health of city or general health districts shall be given the exclusive power to determine the number of inspections necessary for determining the safe drinking characteristics of a private water system.

(3) Private water systems contractors, as a condition of doing business in this state, shall annually register with, and comply with surety bonding requirements of, the department of health. No such contractor shall be permitted to register if the contractor fails to comply with all applicable rules adopted by the ~~public health council~~ director and the board of health of the city or general health district. The annual registration fee for private water systems contractors shall be sixty-five dollars. The ~~public health council~~ director, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the annual registration fee. ~~Before January 1, 1993, the fee shall not be increased by more than fifty per cent of the amount prescribed by this section.~~

(4) ~~Boards~~ Subject to rules adopted by the director, boards of health of city or general health districts ~~subject to such rules of the public health council~~ shall have the option of determining whether bacteriological examinations shall be performed at approved laboratories of the state or at approved private laboratories.

(5) The ~~public health council~~ director may establish fees for each new private water system installation, which shall be collected by the appropriate board of health and transmitted to the director ~~of health~~ pursuant to section 3709.092 of the Revised Code.

(6) All fees received by the director of health under divisions (B)(1),

(3), and (5) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the administration and enforcement of sections 3701.344 to 3701.347 of the Revised Code and the rules pertaining to private water systems adopted under those sections ~~or section 3701.34 of the Revised Code.~~

(C) To the extent that rules adopted under division (B) of this section require health districts to follow specific procedures or use prescribed forms, no such procedure or form shall be implemented until it is approved by majority vote of an approval board of health commissioners, hereby created. Members of the board shall be the officers of the association of Ohio health commissioners, or any successor organization, and membership on the board shall be coterminous with holding an office of the association. No health district is required to follow a procedure or use a form required by a rule adopted under division (B) of this section without the approval of the board.

(D) A board of health shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 3701.345. Any applicant for a permit to construct, develop, install, or modify a private water system required by rules adopted by the ~~public director of health council~~ under ~~sections 3701.34 and section~~ 3701.347 of the Revised Code may apply to the board of health of the city or general health district administering and enforcing the private water supply program in the health district in which the private water system is or is to be located or, if the health district is not administering and enforcing the program, may apply to the department of health for a variance from such rules governing the design, construction, development, installation, or modification of private water systems. The application for a variance shall be made in writing and shall include a statement of the particular rule or rules from which a variance is sought, a description of the proposed system or modification, and the necessity for the variance. The board of health or the department of health shall not grant a variance unless the applicant demonstrates that:

(A) There will be an unusual and unnecessary hardship in complying with the rules from which the variance is sought;

(B) Contamination of the private water system will not occur as a result of construction and operation of the system as proposed by the variance application;

(C) The health of persons using water from the private water system will not be endangered as a result of construction and operation of the system as proposed by the variance application; and

(D) No other technically feasible and economically reasonable means exist for obtaining water from the proposed type of water source.

Sec. 3701.347. Notwithstanding division (E) of section 6111.42 of the Revised Code, rules adopted under such division and in effect on December 14, 1978, shall continue in effect until repealed by the environmental protection agency or superseded by rules ~~of adopted by the public director of health council~~ as hereinafter provided, as fully as if such section had not been amended by Amended Substitute Senate Bill No. 445 of the 112th general assembly on such date. Insofar as these rules affect wells for the provision of water for human consumption not used or for use by a public water system, they shall remain in effect notwithstanding repeal by the environmental protection agency until the ~~public health council~~ director adopts rules superseding them which prescribe uniform standards and procedures for the design, construction, inspection, installation, development, maintenance, and abandonment of private water systems, to protect the health of the persons served by such water systems and to establish fees at a level calculated to pay the cost of administering and enforcing such rules by the director ~~health~~ or by boards of health of city and general health districts approved by the director of health. For purposes of this section "public water system" has the meaning ascribed to it in section 6109.01 of the Revised Code.

Sec. 3701.352. No person shall violate any rule the ~~public health council~~, director of health, or department of health adopts or any order the director or department of health issues under this chapter to prevent a threat to the public caused by a pandemic, epidemic, or bioterrorism event.

Sec. 3701.40. The ~~public director of health council~~ shall by rule prescribe minimum standards for the maintenance and operation of hospitals and medical facilities which shall receive federal aid for construction under the state plan provided for by section 3701.39 of the Revised Code.

Boards of trustees or directors of institutions required to comply with sections 3701.01, 3701.04, 3701.08, 3701.09, and 3701.37 to 3701.45 of the Revised Code shall have the right to select the professional staff members of such institutions and to select and employ interns, nurses, and other personnel, and no rules, regulations, or standards of the director of health ~~or the public health council~~ adopted or promulgated severally or jointly shall be valid which, if enforced, would interfere in such selection or employment.

The director of health may petition the common pleas court of the county in which any hospital or medical facility is located for an order enjoining any person, firm, partnership, association, corporation, or other entity, private or public, from operating a hospital or medical facility in violation of any rules adopted under this section. Irrespective of any other remedy the director may have in law or equity the court has jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating in violation of such rules.

Sec. 3701.503. As used in sections 3701.504 to 3701.509 of the Revised Code:

(A) "Parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian.

(B) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(C) "Custodian" means, except as used in division (A) of this section, a government agency or an individual, other than the parent or guardian, with legal or permanent custody of a child as defined in section 2151.011 of the Revised Code.

(D) "Hearing screening" means the identification of newborns and infants who may have a hearing impairment, through the use of a physiologic test.

(E) "Hearing evaluation" means evaluation through the use of audiological procedures by an audiologist or physician.

(F) "Hearing impairment" means a loss of hearing in one or both ears in the frequency region important for speech recognition and comprehension.

(G) "Newborn" means a child who is less than thirty days old.

(H) "Infant" means a child who is at least thirty days but less than twenty-four months old.

(I) "Freestanding birthing center" has the same meaning as in section ~~3702.54~~ 3702.141 of the Revised Code.

(J) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(K) "Audiologist" means an individual authorized under section 4753.07 of the Revised Code to practice audiology.

(L) "Hospital" means a hospital that has a maternity unit or newborn nursery.

(M) "Maternity unit" means any unit or place in a hospital where women are regularly received and provided care during all or part of the

maternity cycle, except that "maternity unit" does not include an emergency department or similar place dedicated to providing emergency health care.

(N) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

Sec. 3701.507. (A) To assist in implementing sections 3701.503 to 3701.509 of the Revised Code, the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code shall appoint a permanent infant hearing screening subcommittee. The subcommittee shall consist of the following members:

- (1) One otolaryngologist;
 - (2) One neonatologist;
 - (3) One pediatrician;
 - (4) One neurologist;
 - (5) One hospital administrator;
 - (6) Two or more audiologists who are experienced in infant hearing screening and evaluation;
 - (7) One speech-language pathologist licensed under section 4753.07 of the Revised Code;
 - (8) Two persons who are each a parent of a hearing-impaired child;
 - (9) One geneticist;
 - (10) One epidemiologist;
 - (11) One adult who is deaf or hearing impaired;
 - (12) One representative from an organization for the deaf or hearing impaired;
 - (13) One family advocate;
 - (14) One nurse from a well-baby neonatal nursery;
 - (15) One nurse from a special care neonatal nursery;
 - (16) One teacher of the deaf who works with infants and toddlers;
 - (17) One representative of the health insurance industry;
 - (18) One representative of the bureau for children with medical handicaps;
 - (19) One representative of the department of education;
 - (20) One representative of the Ohio department of job and family services who has responsibilities regarding medicaid;
 - (21) Any other person the advisory council appoints.
- (B) The infant hearing subcommittee shall:
- (1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code;
 - (2) Advise and make recommendations regarding proposed rules prior

to their adoption by the ~~public health council~~ director under section 3701.508 of the Revised Code;

(3) Consult with the director of health and advise and make recommendations regarding program development and implementation under sections 3701.503 to 3701.509 of the Revised Code, including all of the following:

(a) Establishment under section 3701.504 of the Revised Code of the statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment;

(b) Identification of locations where hearing evaluations may be conducted;

(c) Recommendations for methods and techniques of hearing screening and hearing evaluation;

(d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care;

(e) Maintenance of a register of newborns and infants who do not pass the hearing screening;

(f) Preparation of the information required by section 3701.506 of the Revised Code ~~and any other information the public health council requires the department of health to provide.~~

Sec. 3701.508. (A) The ~~public~~ director of health council shall adopt rules governing the statewide hearing screening, tracking, and early intervention program established under section 3701.504 of the Revised Code, including rules that do all of the following:

(1) Specify how hospitals and freestanding birthing centers are to comply with the requirements of section 3701.505 of the Revised Code, including methods to be used for hearing screening, except that with regard to the physiologic equipment to be used for hearing screening, the rules may require only that the equipment be capable of giving reliable results and may not specify particular equipment or a particular type of equipment;

(2) Provide that no newborn or infant shall be required to undergo a hearing screening if the parent, guardian, or custodian of the newborn or infant objects on the grounds that the screening conflicts with the parent's, guardian's, or custodian's religious tenets and practices;

(3) Provide for situations in which the parent, guardian, or custodian of a newborn or infant objects to a hearing screening for reasons other than religious tenets and practices;

(4) Specify how the department of health will determine whether a person is financially unable to pay for a hearing screening and define "third-party payer" for the purpose of reimbursement of hearing screening

by the department under section 3701.505 of the Revised Code;

(5) Specify an inexpensive and efficient format and procedures for the submission of hearing screening information from hospitals and freestanding birthing centers to the department of health;

(6) Specify a procedure whereby the department may conduct timely reviews of hearing screening information submissions for purposes of quality assurance, training, and disease prevention and control;

(7) Specify any additional information that hospitals and freestanding birthing centers are to provide to the medically handicapped children's medical advisory council's infant hearing screening subcommittee under section 3701.509 of the Revised Code.

(B) In addition to the rules adopted under division (A) of this section, the ~~council~~ director shall adopt rules that specify the training that must be completed by persons who will conduct hearing screenings. In adopting these rules, the ~~council~~ director shall consider incorporating cost-saving training methods, including computer-assisted learning and on-site training. Neither the rules nor the director of health may establish a minimum educational level for persons conducting hearing screenings.

(C) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code and shall be adopted so as to take effect not later than six months after ~~the effective date of this section~~ August 1, 2002.

Sec. 3701.509. (A) The department of health shall develop a mechanism to analyze and interpret the hearing screening information to be reported under division (B) of this section. The department shall notify all hospitals and freestanding birthing centers subject to the reporting requirements of the date the department anticipates that the mechanism will be complete. After the mechanism is complete, the department shall notify each hospital and freestanding birthing center subject to the reporting requirement of the date by which the hospital or center must submit its first report.

(B) Subject to division (A) of this section and in accordance with rules adopted by the ~~public director of health council~~ director under section 3701.508 of the Revised Code, each hospital and freestanding birthing center that has conducted a hearing screening required by section 3701.505 of the Revised Code shall provide to the department of health for use by the medically handicapped children's medical advisory council's infant hearing screening subcommittee information specifying all of the following:

(1) The number of newborns born in the hospital or freestanding birthing center and the number of newborns and infants not screened because they were transferred to another hospital;

(2) The number of newborns and infants referred to the hospital or freestanding birthing center for a hearing screening and the number of those newborns and infants who received a hearing screening;

(3) The number of newborns and infants who did not pass the hearing screenings conducted by the hospital or freestanding birthing center;

(4) Any other information concerning the program established under section 3701.504 of the Revised Code.

(C) The department of health shall conduct a timely review of the information submitted by hospitals and freestanding birthing centers in accordance with rules adopted by the ~~public health council~~ director under section 3701.508 of the Revised Code.

(D) The infant hearing screening subcommittee, with the support of the department of health, shall compile and summarize the information submitted to the department by hospitals and freestanding birthing centers under division (B) of this section. Beginning with the first year after the mechanism developed under division (A) of this section is complete, the subcommittee shall annually prepare and transmit a report to the director of health, the speaker of the house of representatives, and the president of the senate. The council shall make the report available to the public.

(E) The department and all members of the subcommittee shall maintain the confidentiality of patient-identifying information submitted under division (B) of this section and section 3701.505 of the Revised Code. The information is not a public record under section 149.43 of the Revised Code, except to the extent that the information is used in preparing reports under this section.

Nothing in this division prohibits the department from providing patient-identifying information to other entities as it considers necessary to implement the statewide tracking and early intervention components of the program established under section 3701.504 of the Revised Code. Any entity that receives patient-identifying information from the department shall maintain the confidentiality of the information.

Sec. 3701.57. All prosecutions and proceedings by the department of health for the violation of sections 3701.01 to 3701.56, 3705.01 to 3705.29, 3707.06, 3709.01 to 3709.04, 3709.07 to 3709.11, 3709.13, 3709.17, 3709.18, and 3709.21 to 3709.36 of the Revised Code, or for the violation of any of the orders or rules of the department, shall be instituted by the director of health. Except as provided in division (C) of section 3701.571 of the Revised Code, all fines or judgments the department collects shall be paid into the state treasury to the credit of the general revenue fund.

The director of health, the board of health of a general or city health

district, or any person charged with enforcing the rules of the department of health as provided in section 3701.56 of the Revised Code may petition the court of common pleas for injunctive or other appropriate relief requiring any person violating a rule adopted by ~~the public health council under section 3701.34 of the Revised Code~~ or any order issued by the director of health under this chapter to comply with such rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant such injunctive or other appropriate relief as the equities of the case require.

Sec. 3701.63. (A) As used in this section and section 3701.64 of the Revised Code:

(1) "Child day-care center," "type A family day-care home," and "certified type B family day-care home" have the same meanings as in section 5104.01 of the Revised Code.

(2) "Child care facility" means a child day-care center, a type A family day-care home, or a certified type B family day-care home.

(3) "Freestanding birthing center" has the same meaning as in section ~~3702.54~~ 3702.141 of the Revised Code.

(4) "Hospital" means a hospital classified pursuant to rules adopted under section 3701.07 of the Revised Code as a general hospital or children's hospital.

(5) "Maternity unit" means any unit or place in a hospital where women are regularly received and provided care during all or part of the maternity cycle, except that "maternity unit" does not include an emergency department or similar place dedicated to providing emergency health care.

(6) "Parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. "Parent" also means a prospective adoptive parent with whom a child is placed.

(7) "Shaken Baby Syndrome" means signs and symptoms, including, but not limited to, retinal hemorrhages in one or both eyes, subdural hematoma, or brain swelling, resulting from the violent shaking or the shaking and impacting of the head of an infant or small child.

(B) The director of health shall establish the shaken baby syndrome education program by doing all of the following:

(1) By not later than one year after February 29, 2008, developing educational materials that present readily comprehensible information on shaken baby syndrome;

(2) Making available on the department of health web site in an easily

accessible format the educational materials developed under division (B)(1) of this section;

(3) Beginning in 2009, annually assessing the effectiveness of the shaken baby syndrome education program by evaluating the reports received pursuant to section 5101.135 of the Revised Code.

(C) In meeting the requirements under division (B) of this section, the director shall not develop educational materials that will impose an administrative or financial burden on any of the entities or persons listed in section 3701.64 of the Revised Code.

Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:

(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(4) "Health care practitioner" means all of the following:

(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(c) An optometrist licensed under Chapter 4725. of the Revised Code;

(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;

(e) A pharmacist licensed under Chapter 4729. of the Revised Code;

(f) A physician;

(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;

(i) A psychologist licensed under Chapter 4732. of the Revised Code;

- (j) A chiropractor;
 - (k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;
 - (l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
 - (m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;
 - (n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;
 - (o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;
 - (p) A dietitian licensed under Chapter 4759. of the Revised Code;
 - (q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;
 - (r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.
- (5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.
- (6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.
- (7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; ~~an adult care a residential facility, as defined in~~ licensed under section 5119.70 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.
- (8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.
- (9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical

records to a patient or patient's representative.

(10) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.

(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division.

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

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

(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.

(B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician or chiropractor designated by the patient. The health care provider shall take

reasonable steps to establish the identity of the person making the request to examine or obtain a copy of the patient's record.

(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Sec. 3701.77. (A) The department of health may establish, promote, and maintain a lupus education and awareness program with an emphasis on at-risk communities to raise public awareness, educate consumers, and educate and train health professionals, human services providers, and other audiences.

(B) The department, in creating and implementing the program, may do all of the following:

(1) Provide sufficient staff and appropriate training to implement the program;

(2) Establish a grant program to support nonprofit voluntary health organizations with expertise in lupus to increase public awareness and enhance health professional education and understanding of the symptoms and consequences of lupus and the populations most at risk;

(3) Establish an intergovernmental council and advisory panel to oversee the implementation of the program;

(4) Identify the appropriate entities to carry out the program;

(5) Base the program on the most current scientific information and findings;

(6) Work with government entities, community and business leaders, community organizations, health and human services providers, and national, state, and local lupus organizations, such as the lupus foundation of America, inc., to coordinate efforts to maximize state resources in the areas of lupus education and awareness;

(7) Identify and use other successful lupus education and awareness programs and procure related materials and services from organizations with appropriate expertise and knowledge of lupus.

(C) The department may accept gifts, grants, and donations from the

federal government, foundations, organizations, medical schools, and other entities for fulfilling the obligations of the program.

(D) The department may seek any federal waiver that may be necessary to maximize funds from the federal government to implement the program.

Sec. 3701.771. (A)(1) The department of health may conduct a needs assessment to identify all of the following:

(a) The level of statewide health professional and public awareness about lupus;

(b) The existence of lupus education, awareness, and treatment programs and related technical assistance available in the state and nationwide;

(c) The lupus-related educational and support service needs of health care providers in the state, including physicians, nurses, health plans, and other health professionals and health care entities;

(d) The needs of people with lupus, their families, and caregivers, including health care providers, physicians, nurses, health plans, and other health professionals and health care entities;

(e) The services available to individuals with lupus, including the existence and availability of lupus treatment and specialty care, lupus support groups, and other related care and management services.

(2) Based on the needs assessment, the department may develop and maintain a directory of lupus-related services and health care providers with specialization in services to diagnose and treat lupus. The department may disseminate the directory to all stakeholders, including individuals with lupus, families, representatives from voluntary organizations, health professionals, health plans, and state and local health agencies.

(B) The department may undertake activities to raise public awareness about the symptoms of lupus, personal risk factors, and options for diagnosing and treating the disease with a particular focus on populations at elevated risk for lupus. Such activities may include, but are not limited to, the following:

(1) Implementing a statewide campaign to educate the general public about lupus by utilizing print, radio, and television public service announcements, advertisements, posters, and other materials;

(2) Disseminating health information and conducting individual risk assessments at public events, such as health fairs and community forums sponsored by the department;

(3) Distributing information through local health departments; schools; area agencies on aging; employer wellness programs; physicians and other health professionals; hospitals and health plans; health, nonprofit, and

community-based organizations; and regional offices of the department.

Sec. 3701.772. (A) The department of health may establish a program to award grants to educate and train physicians, health professionals, and other service providers on the most current, accurate scientific and medical information on lupus diagnosis, treatment, and therapeutic decision-making, including medical best practices for detecting and treating the disease in special populations, risks and benefits of medications, and research advances. If a program to award grants is established, the department shall allocate the total amount available for the grants in amounts that are proportionate to the populations of the areas served by the Ohio chapters of the lupus foundation of America, inc.

To be eligible for a grant, an applicant must be affiliated with the foundation.

(B) Each grant recipient shall do all of the following:

(1) Develop health professional educational materials that identify the latest scientific and medical information and clinical applications;

(2) Work to increase knowledge among physicians, nurses, and other health and human services professionals about the importance of lupus diagnosis, treatment, and rehabilitation;

(3) Use available curricula for training of health and human services providers and community leaders on lupus detection and treatment;

(4) Support continuing medical education programs in all geographical areas of the state presented by the leading state academic institutions by providing the most current information;

(5) Provide workshops and seminars for in-depth professional development in the field of care and management of lupus patients to bring the latest information on clinical advances to health care providers;

(6) Conduct statewide conferences on lupus at appropriate intervals;

(7) Prepare an annual report that describes the recipient's use of the grant and submit a copy of the report to the department.

Sec. 3701.773. (A) If the department of health establishes the intergovernmental council as permitted by division (B)(3) of section 3701.77 of the Revised Code, the department shall seek to ensure coordination of lupus education and awareness efforts. The director of health shall serve as the council's chairperson. The council shall include representatives from appropriate state departments and agencies, including entities with responsibility for health disparities, medicaid, public health programs, education, and public welfare.

(B) The council shall do all of the following:

(1) Provide oversight to the lupus education and awareness program, as

well as other lupus programs conducted by the department;

(2) Develop and issue grant applications and policies and procedures for programs aimed at health professionals and the public;

(3) Establish a mechanism for sharing information on lupus among all officials and employees involved in carrying out lupus-related programs;

(4) Assist the department and other offices in developing and coordinating plans for education and health promotion on lupus and ensure that issues related to lupus are integrated into other statewide plans;

(5) Prepare an annual report that describes educational initiatives on lupus sponsored by the state and make recommendations for new educational initiatives on lupus. The report shall be transmitted to the general assembly and be made available to the public.

Sec. 3701.774. (A) If the department of health establishes the advisory panel as permitted by division (B)(3) of section 3701.77 of the Revised Code, the department shall coordinate the panel to provide input and counsel regarding the lupus education and awareness program.

(B) If the panel is established, all of the following apply:

(1) Individuals and organizations may submit to the department nominations for appointments to the panel. Each panel member shall have familiarity with lupus and issues that surround lupus.

(2) The panel shall be comprised of the following members to be appointed by the director of health:

(a) At least three individuals with lupus;

(b) Not more than two representatives from the department;

(c) At least five individuals from lupus nonprofit health organizations, with preference given to individuals from the lupus foundation of America, inc.;

(d) At least five scientists or clinicians with experience in lupus who participate in various fields of scientific endeavor, including the fields of biomedical research, social, translational, behavioral and epidemiological research, and public health.

(3) The department shall select from among the panel members one member to serve as chairperson of the panel.

Members of the panel shall serve terms of two years each. Members may be named to serve a total of two terms and terms may be consecutive.

A majority of the members of the panel constitutes a quorum. A majority vote of a quorum is required for any official action of the panel.

The panel shall meet at the call of the panel chairperson, but not fewer than four times per year.

All members shall serve without compensation, but may be reimbursed

for actual, necessary expenses incurred in the performance of their duties.

(4) The panel shall be responsible for advising the department and the intergovernmental council with respect to the implementation of the lupus education and awareness program. The department shall consult with the advisory panel on a regular basis.

Sec. 3701.775. There is hereby created in the state treasury the lupus education and awareness program fund. If the department of health establishes the lupus education and awareness program, as authorized under section 3701.77 of the Revised Code, all moneys accepted under division (C) of that section shall be credited to the fund. Money in the fund shall be used solely to administer the lupus education and awareness program.

Sec. 3701.87. The governor may authorize the department of health to enter into an agreement on behalf of the state with the United States secretary of health, ~~education, and welfare~~ human services whereby the department may serve as the agency for review of proposed capital expenditures by health care facilities pursuant to section 1122 of the "Social Security Act" as amended by Public Law 92-603, 42 U.S.C. 1320a-1, and the regulations adopted thereunder. Such agreement shall be subject to and include the following terms and conditions:

(A) All applications, notices, requests for information, and other official communications shall be on written forms prescribed by and approved by the director of health ~~and approved by the public health council.~~

(B) The ~~council~~ director, subject to Chapter 119. of the Revised Code, shall propose, modify, amend, and adopt rules, standards, guidelines, and official policies which are consistent with federal law, as it deems necessary to implement the capital expenditures review program.

(C) The director shall make all findings and recommendations required by federal law and shall give due consideration to the findings, reviews, and comments of areawide health planning agencies performing reviews pursuant to section 314 (b)(2) of the "Public Health Service Act," 42 U.S.C. 246, or the appropriate health systems agency.

(D) The findings and recommendations of the director shall be in writing and shall clearly specify the provisions of the state health facilities plan with which any application is found to be inconsistent. Any applicant adversely affected by the findings and recommendations of the director may request a hearing before the ~~council~~ director pursuant to Chapter 119. of the Revised Code. The findings and recommendations of the ~~council~~ director are an adjudication as defined in Chapter 119. of the Revised Code and may be appealed as provided in that chapter.

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

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

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

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

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

(3) "Criminal records check" and "older adult" have has the same meanings meaning as in section 109.572 of the Revised Code.

~~(3)(4)~~ "Direct care" means any of the following:

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

(b) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;

(c) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.

(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

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

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

- (a) Skilled nursing care;
- (b) Physical therapy;
- (c) Speech-language pathology;
- (d) Occupational therapy;

- (e) Medical social services;
- (f) Home health aide services.

~~(4)~~(8) "Home health aide services" means any of the following services provided by an ~~individual employed with or contracted for by~~ employee of a home health agency:

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

~~(5)~~(9) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.

~~(6)~~(10) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.

~~(7)~~(11) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

~~(8)~~(12) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.

~~(9)~~(13) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.

~~(10)~~(14) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.

~~(11)~~(15) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.

~~(12)~~(16) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

(1) The excluded parties list system maintained by the United States

general services administration pursuant to subpart 9.4 of the federal acquisition regulation;

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

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

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

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

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

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

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

applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check ~~for the applicant~~. Even if an applicant or employee for whom a criminal records check request is required ~~under~~ by this ~~division~~ section presents proof that the applicant or employee has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) ~~Any person required by division (B)(1) of this section to request a criminal records check~~ The chief administrator shall provide do all of the following:

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

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

(c) Forward the completed form and standard impression sheet to the superintendent ~~of the bureau of criminal identification and investigation~~ at the time the chief administrator requests a the criminal records check pursuant to division (B)(1) of this section.

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

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

(a) ~~A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11,~~

~~2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;~~

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

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

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

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

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

(a) The home health agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee

is paid, the applicant will not be considered for employment.

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

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

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

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

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

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

(G)(1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of by this section as a person responsible for the care, custody, or control of a child until the criminal records check regarding the applicant required by this section is completed and the agency receives before obtaining the results of the criminal records check if the agency is not prohibited by division (B) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies:

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

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

designated official of the employment service, and the letter states all of the following:

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

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

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

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

(2) If a home health agency employs an applicant conditionally pursuant to division (G)(1)(b) of this section, the employment service, on its receipt of the results of the criminal records check, promptly shall send a copy of the results to the chief administrator of the agency. If the results of the criminal records check indicate that, pursuant to division (C)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment unless the agency chooses to employ the applicant pursuant to division (F) of this section.

(b)(i) A home health agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section in a position that involves providing direct care to an older adult or in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults prior to obtaining the results of a criminal records check regarding the individual, provided that the agency shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home health agency may employ conditionally in a position that involves providing direct care to an older adult an applicant who has been referred to the home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section. In the circumstances described in division (I)(4) of this section, a home health agency may employ conditionally in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults an applicant who

has been referred to the home health agency by an employment service that supplies full time, part time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(ii)(3) A home health agency that employs an individual applicant conditionally under authority of pursuant to division (C)(3)(b)(i)(G)(1)(a) or (b) of this section shall terminate the individual's applicant's employment if the results of the criminal records check requested under division (B)(1) of this section or described in division (I)(2) or (4) 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 sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the individual was employed conditionally in a position that involves the provision of direct care to older adults and the results indicate that the individual applicant has been convicted of or, pleaded guilty to any of the offenses listed or described in division (C)(2) of this section, or if the individual was employed conditionally in a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and 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) or (2) of this section, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the home health agency shall terminate the individual's applicant's employment unless circumstances specified in rules adopted under this section that permit the agency to employ the applicant exist and the agency chooses to employ the individual pursuant to division (F) of this section applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual applicant makes any attempt to deceive the home health agency about the individual's applicant'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)~~(H) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under ~~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~~ applicant or employee who is the subject of the criminal records check or the ~~individual's~~ applicant's or employee's representative;

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

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

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

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

(6) The director of aging or the director's designee if either of the following apply:

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

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

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

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

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

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

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

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

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

(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.

(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 position.

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

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

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

(3) If the home health agency in good faith employed the individual applicant or employee according to the personal character standards established in rules adopted under ~~division (F)~~ of this section, the agency shall not be found negligent solely because the individual prior to being employed applicant or employee had been convicted of or, pleaded guilty to an, or been found eligible for intervention in lieu of conviction for a disqualifying offense listed or described in division (C)(1) or (2) of this section.

~~(1)(1) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves the provision of direct care to older adults if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults 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)(2) 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 home health agency chooses to employ the individual pursuant to division (F) of this section.~~

~~(2) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves providing direct care to older adults and may employ the applicant conditionally in a position of that nature as described in this division, if the applicant has been referred to the agency by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service;~~

~~dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(2) of this section; that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home health agency. If a home health agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section applies regarding the conditional employment.~~

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

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

~~(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) or (2) 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 home health agency chooses to employ the individual pursuant to division (F) of this section.~~

~~(4) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and may employ the applicant conditionally in a position of that nature as described in this division, if the applicant has been referred to the agency by an employment service that~~

~~supplies full-time, part-time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) or (2) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home health agency. If a home health agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section applies regarding the conditional employment.~~

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

(1) The rules may do the following:

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

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

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

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

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

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

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

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

Sec. ~~185.04~~ 3701.92. As used in this chapter sections 3701.921 to 3701.929 of the Revised Code:

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

(B) "~~Collaboration~~" has the same meaning as in section ~~4723.01~~ of the Revised Code.

(C) "~~Patient centered medical home education advisory group~~" means the entity established under section ~~185.03~~ 3701.924 of the Revised Code to implement and administer the patient centered medical home education pilot project.

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

(E) "Patient centered medical home education pilot project" means the pilot project established under section ~~185.02~~ 3701.923 of the Revised Code.

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

Sec. 3701.921. There is hereby established the patient centered medical home education program in the department of health. For the purpose of advancing education in the patient centered medical home model of care, the director of health may implement and administer the program pursuant to sections 3701.922 to 3701.929 of the Revised Code. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinate patient centered care.

To the extent that funds are available, the program shall include the patient centered medical home education pilot project and may include any other pilot projects the director establishes pursuant to division (A)(3) of section 3701.922 of the Revised Code.

Sec. 3701.922. (A) The director of health may do any of the following to implement and administer the patient centered medical home education program:

(1) Develop and implement programs of education or training on the patient centered medical home model of care or other similar enhanced

models of coordinated patient centered care that are intended to address the multifaceted needs of patients and provide whole person comprehensive and coordinated patient centered care;

(2) Advise, consult, cooperate with, and assist, by contract or other arrangement, government agencies or institutions or private organizations, corporations, or associations in the development and promotion of programs pertaining to the evaluation and implementation of the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care;

(3) Establish pilot projects that do any of the following:

(a) Evaluate or implement the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care;

(b) Provide education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care.

(4) Seek and administer state funds or grants from other sources to carry out any functions of the patient centered medical home education program.

Any funds or grants received by the director for purposes of the program shall be used for the program.

(B) The director may adopt rules as necessary to implement and administer the patient centered medical home education program, including rules that define what constitutes a "patient centered medical home" for purposes of an entity authorized to provide care coordination services. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

~~Sec. 485.02 3701.923. (A) There is hereby established the patient centered medical home education pilot project. The pilot project shall be implemented and administered by the patient centered medical home education advisory group.~~

~~(B) The pilot project shall be operated to advance medical education in the patient centered medical home model of care. The patient centered medical home model of care is an enhanced model of primary care in which care teams attend to the multifaceted needs of patients, providing whole person comprehensive and coordinated patient centered care.~~

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

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

practice unless the practice complies with any applicable requirements under section 3701.926 of the Revised Code.

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

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

(a) Learning opportunities generated by the project;

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

(c) Costs of the project;

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

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

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

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

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

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

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

(D) The ~~pilot~~ project shall not be operated in a manner that requires a patient, unless otherwise required by the Revised Code, to receive a referral from a physician in a practice selected for inclusion in the pilot project under division (A)(1) of this section 185.05 of the Revised Code as a condition of being authorized to receive specialized health care services from an individual licensed or certified under Title XLVII of the Revised

Code to provide those services.

Sec. ~~185.03~~ 3701.924. (A) The patient centered medical home education advisory group is hereby created for the purpose of ~~implementing and administering~~ advising the director of health on the implementation and administration of the patient centered medical home pilot project education program. The advisory group shall develop and provide to the director a set of expected outcomes for the pilot project. The advisory group shall consider and provide other recommendations to the director and complete other duties as the director considers appropriate.

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

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

~~(1)(a)~~ (1)(a) One individual with expertise in the training and education of primary care physicians ~~who is appointed~~ recommended by the dean of the university of Toledo college of medicine;

~~(2)(b)~~ (2)(b) One individual with expertise in the training and education of primary care physicians ~~who is appointed~~ recommended by the dean of the Boonshoft school of medicine at Wright state university;

~~(3)(c)~~ (3)(c) One individual with expertise in the training and education of primary care physicians ~~who is appointed~~ recommended by the president and dean of the northeast Ohio medical university;

~~(4)(d)~~ (4)(d) One individual with expertise in the training and education of primary care physicians ~~who is appointed~~ recommended by the dean of the Ohio university college of osteopathic medicine;

~~(5)(e)~~ (5)(e) Two individuals ~~appointed~~ recommended by the governing board of the Ohio academy of family physicians;

~~(6)(f)~~ (6)(f) One individual ~~appointed~~ recommended by the governing board of the Ohio chapter of the American college of physicians;

~~(7)(g)~~ (7)(g) One individual ~~appointed~~ recommended by the governing board of the Ohio chapter of the American academy of pediatrics;

~~(8)(h)~~ (8)(h) One individual ~~appointed~~ recommended by the governing board of the Ohio osteopathic association;

~~(9)(i)~~ (9)(i) One individual with expertise in the training and education of advanced practice nurses ~~who is appointed~~ recommended by the governing board of the Ohio council of deans and directors of baccalaureate and higher degree programs in nursing;

~~(10)(j)~~ (10)(j) One individual ~~appointed~~ recommended by the governing board of the Ohio nurses association;

~~(11)(k)~~ (11)(k) One individual ~~appointed~~ recommended by the governing board of the Ohio association of advanced practice nurses;

~~(12)(l)~~ (12)(l) One individual ~~appointed~~ recommended by the governing board

of the Ohio council for home care and hospice;

~~(13)~~(m) One individual ~~appointed~~ recommended by the superintendent of insurance;

(n) An employee of the department of health;

(o) Not more than five additional members who have relevant expertise that the director considers appropriate.

~~(C)~~(2) The advisory group shall consist of the following ~~nonvoting, ex officio~~ members:

~~(1)~~(a) The executive director of the state medical board, or the director's designee;

~~(2)~~(b) The executive director of the board of nursing or the director's designee;

~~(3)~~(c) The chancellor of the Ohio board of regents, or the chancellor's designee;

~~(4)~~(d) The individual within the department of job and family services who serves as the medical assistance director of ~~medicaid~~, or the director's designee;

~~(5) The director of health or the director's designee.~~

~~(D) Advisory group members who are appointed shall serve at the pleasure of their appointing authorities. Terms of office of appointed members shall be three years, except that a member's term ends if the pilot project ceases operation during the member's term.~~

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

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

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

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

(E) ~~The advisory group shall select~~ director may appoint from among its ~~the members of the advisory group~~ a chairperson and vice-chairperson. ~~The advisory group may select any other officers it considers necessary to conduct its business.~~

A majority of the members of the advisory group constitutes a quorum ~~for the transaction of official business.~~ A majority of a quorum is necessary for the advisory group to take any action, ~~except that when one or more members of a quorum are required to abstain from voting as provided in division (C)(1)(d) or (C)(2)(e) of section 185.05 of the Revised Code, the number of members necessary for a majority of a quorum shall be reduced accordingly~~ make any recommendations to the director.

~~The advisory group shall meet as necessary to fulfill its duties. The times and places for the meetings shall be selected by the chairperson at the call of the director. The director shall call the advisory group to meet not less than annually to discuss or consider recommendations to the director on the administration of the patient centered medical home education program.~~

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

~~Sec. 185.05 3701.925.~~ (A) The patient centered medical home education advisory group shall accept applications for inclusion in the patient centered medical home education pilot project from primary care practices with educational affiliations, as determined by the advisory group, with one or more of the following:

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

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

- (a) Ten practices affiliated with the Boonshoft school of medicine at Wright state university;
- (b) Ten practices affiliated with the university of Toledo college of medicine;

- (c) Ten practices affiliated with the northeast Ohio medical university;
- (d) Ten practices affiliated with the centers for osteopathic research and education of the Ohio university college of osteopathic medicine.

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

(a) One practice affiliated with the college of nursing at the university of Toledo;

(b) One practice affiliated with the Wright state university college of nursing and health;

(c) One practice affiliated with the college of nursing at Kent state university or the university of Akron college of nursing;

(d) One practice affiliated with the school of nursing at Ohio university.

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

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

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

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

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

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

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

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

application from a sufficiently qualified advanced practice ~~nurse~~ nurse-led primary care practice affiliated with a particular institution specified in division (B)(2) of this section, the advisory group shall make the ~~selections~~ recommendations required under that division in such a manner that the greatest possible number of those institutions are ~~represented~~ recommended to be included in the pilot project. To be ~~selected~~ recommended in this manner, a practice remains subject to the eligibility requirements specified in division (B) of section ~~185.06~~ 3701.926 of the Revised Code. As specified in division (B)(2) of this section, the number of practices ~~selected~~ recommended for inclusion in the pilot project shall be at least four.

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

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

Sec. ~~185.06~~ 3701.926. (A) To be eligible for inclusion in the patient centered medical home education pilot project, a ~~physician~~ physician-led practice shall meet all of the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 185.07 ~~3701.927~~. The ~~patient centered medical home education advisory group~~ director of health shall enter into a contract with each primary care practice selected by the director for inclusion in the patient centered medical home education pilot project. The contract shall specify the terms and conditions for inclusion in the pilot project, including a requirement that the practice provide comprehensive, coordinated primary care services to patients and serve as the patients' medical home. The contract shall also require the practice to participate in the training of medical students, advanced practice nursing students, ~~or physician assistant students, and~~ primary care medical residents.

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

Sec. 185.09 ~~3701.928~~. (A) The director of health or, at the director's request, the patient centered medical home education advisory group shall jointly may work with ~~all~~ medical and, nursing, and physician assistant schools or programs in this state to develop appropriate curricula designed

to prepare primary care physicians ~~and~~, advanced practice nurses, and physician assistants to practice within the patient centered medical home model of care. In developing the curricula, the director or advisory group, ~~medical schools, and nursing~~ and the schools or programs shall include all of the following:

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

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

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

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

~~Sec. 185.12~~ 3701.929. (A) ~~The patient centered medical home education advisory group~~ If the director of health establishes the patient centered medical home education pilot project, the director shall prepare reports of its findings and recommendations from the patient centered medical home education pilot project. Each report shall include an evaluation of the learning opportunities generated by the pilot project, the physicians and advanced practice nurses trained in the pilot project, the costs of the pilot project, and the extent to which the pilot project has met the set of expected outcomes developed under division (A) of section ~~185.03~~ 3701.924 of the Revised Code.

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

(1) An interim report not later than six months after the date on which ~~the first funding is released~~ last primary care practice selected to participate in the project enters into a contract with the department of health pursuant to section 185.11 3701.927 of the Revised Code;

(2) An update of the interim report not later than one year after the date ~~on which the first funding is released~~ specified under division (B)(1) of this section;

(3) A final report not later than two years after the date ~~on which the first funding is released~~ specified under division (B)(1) of this section.

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

Sec. 3701.93. Subject to available funds, the director of health shall establish the Ohio violent death reporting system to collect and maintain information, data, and records regarding violent deaths in Ohio.

Sec. 3701.931. The Ohio violent death reporting system shall do all of the following regarding violent death information, data, and records maintained in the system:

(A) Monitor the incidence and causes of the various types of violent deaths;

(B) Make appropriate epidemiologic studies of the violent deaths;

(C) Analyze trends and patterns in, and circumstances related to, the violent deaths;

(D) With the assistance of the advisory group established pursuant to section 3701.932 of the Revised Code, recommend actions to relevant entities to prevent violent deaths and make any other such recommendations the director of health determines necessary.

Sec. 3701.932. The director of health shall establish an advisory group of interested parties and stakeholders to recommend actions to relevant entities to prevent violent deaths, and make other recommendations the director determines necessary, in accordance with division (D) of section 3701.931 of the Revised Code.

Sec. 3701.933. The data collection model used by the Ohio violent death reporting system shall follow the data collection model used by the United States centers for disease control and prevention national violent death reporting system and any other data collection model set forth by the director of health pursuant to section 3701.934 of the Revised Code.

Sec. 3701.934. The director of health, pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, shall do all of the following:

(A) Specify the types of violent deaths that shall be included in the Ohio violent death reporting system;

(B) Specify the information, data, and records to be collected for use by the Ohio violent death reporting system;

(C) Specify the sources from which the information, data, and records are to be collected for use by the Ohio violent death reporting system;

(D) If determined appropriate by the director, set forth any other data collection model to be used by the Ohio violent death reporting system.

Sec. 3701.935. The director of health shall collect information about violent deaths in Ohio only from existing sources related to violent crimes and shall not conduct independent criminal investigations in order to obtain information, data, or records for use by the Ohio violent death reporting system.

Sec. 3701.936. At the request of the director of health, every department, agency, and political subdivision of the state shall provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code.

Sec. 3701.937. At the request of the director of health, any individual or entity not specified in section 3701.936 of the Revised Code, at the individual's or entity's discretion, may provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code. Any information, data, and records provided to the director by any other individual or entity shall contain only information, data, or records that are available or reasonably drawn from any information, data, and record developed and kept in the normal course of business.

Sec. 3701.938. Notwithstanding any section of the Revised Code pertaining to confidentiality, any individual, public social service agency, or public agency that provides services to individuals or families, law enforcement agency, coroner, or public entity that provided services to an individual whose death is the type of death specified by the director of health under section 3701.934 of the Revised Code shall provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code.

Sec. 3701.9310. Except as otherwise provided in section 3701.9212 of the Revised Code, all of the following are not public records under section 149.43 of the Revised Code, shall be confidential, and shall be published only in statistical form:

(A) Information, data, and records collected for use and maintained by the Ohio violent death reporting system including, but not limited to,

medical records, law enforcement investigative records, coroner investigative records, laboratory reports, and other records concerning a decedent;

(B) Work products created in carrying out the purposes of the Ohio violent death reporting system.

Sec. 3701.9311. Information, data, and records collected for use and maintained by, and all work products created in carrying out the purposes of, the Ohio violent death reporting system shall not be subject to subpoena or discovery while in the possession of the system or admissible in any criminal or civil proceeding if obtained through, or from, the system.

Sec. 3701.9312. The director of health, pursuant to rules adopted in accordance with Chapter 119. of the Revised Code, shall establish standards and procedures to make available to researchers confidential information collected by the Ohio violent death reporting system. Researchers complying with those standards and procedures also shall comply with the confidentiality requirements of section 3701.9310 of the Revised Code.

Sec. 3701.9314. The director of health may adopt rules in accordance with Chapter 119. of the Revised Code necessary to establish, maintain, and carry out the purposes of the Ohio violent death reporting system under sections 3701.93 to 3701.9314 of the Revised Code.

Sec. 3702.141. (A) As used in this section:

(1) "Existing health care facility" means a health care facility that is licensed or otherwise approved to practice in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and actively provides health services or has not been actively providing health services for less than twelve consecutive months.

(2) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.

(3) "Health care facility" and "health service" have the same meanings as in section 3702.51 of the Revised Code means:

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

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

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

amended:

- (d) A freestanding dialysis center;
- (e) A freestanding inpatient rehabilitation facility;
- (f) An ambulatory surgical facility;
- (g) A freestanding cardiac catheterization facility;
- (h) A freestanding birthing center;
- (i) A freestanding or mobile diagnostic imaging center;
- (j) A freestanding radiation therapy center.

A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(4) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service.

(B) Section 3702.14 of the Revised Code shall not be construed to require any existing health care facility that is conducting an activity specified in section 3702.11 of the Revised Code, which activity was initiated on or before March 20, 1997, to alter, upgrade, or otherwise improve the structure or fixtures of the facility in order to comply with any rule adopted under section 3702.11 of the Revised Code relating to that activity, unless one of the following applies:

(1) The facility initiates a construction, renovation, or reconstruction project that involves a capital expenditure of at least fifty thousand dollars, not including expenditures for equipment or staffing or operational costs, and that directly involves the area in which the existing service is conducted.

(2) The facility initiates another activity specified in section 3702.11 of the Revised Code.

~~(3) The facility initiates a service level designation change for obstetric and newborn care.~~

~~(4)~~ The facility proposes to add a cardiac catheterization laboratory to an existing cardiac catheterization service.

~~(5)~~~~(4)~~ The facility proposes to add an open-heart operating room to an existing open-heart surgery service.

~~(6)~~(5) The director of health determines, by clear and convincing evidence, that failure to comply with the rule would create an imminent risk to the health and welfare of any patient.

(C) If division (B)~~(4)~~(3) or ~~(5)~~(4) of this section applies, any alteration, upgrade, or other improvement required shall apply only to the proposed addition to the existing service if the cost of the addition is less than the capital expenditure threshold set forth in division (B)(1) of this section.

(D) No person or government entity shall divide or otherwise segment a construction, renovation, or reconstruction project in order to evade application of the capital expenditure threshold set forth in division (B)(1) of this section.

Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and sections 3702.11 to 3702.20, 3702.30, 3702.301, ~~and 3702.32, and 3702.33~~ of the Revised Code and rules adopted pursuant to those sections. The director shall deposit in the fund any moneys collected pursuant to this section or section 3702.32 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(B) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code establishing fees for both of the following:

(1) Initial and renewal license applications submitted under section 3702.30 of the Revised Code. The fees established under division (B)(1) of this section shall not exceed the actual and necessary costs of performing the activities described in division (A) of this section.

(2) Inspections conducted under section 3702.15 or 3702.30 of the Revised Code. The fees established under division (B)(2) of this section shall not exceed the actual and necessary costs incurred during an inspection, including any indirect costs incurred by the department for staff, salary, or other administrative costs. The director of health shall provide to each health care facility or provider inspected pursuant to section 3702.15 or 3702.30 of the Revised Code a written statement of the fee. The statement shall itemize and total the costs incurred. Within fifteen days after receiving a statement from the director, the facility or provider shall forward the total amount of the fee to the director.

(3) The fees described in divisions (B)(1) and (2) of this section shall meet both of the following requirements:

(a) For each service described in section 3702.11 of the Revised Code, the fee shall not exceed one thousand seven hundred fifty dollars annually, except that the total fees charged to a health care provider under this section shall not exceed five thousand dollars annually.

(b) The fee shall exclude any costs reimbursable by the United States centers for medicare and medicaid services as part of the certification process for the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1935), 42 U.S.C.A. 1395, as amended, and the medicaid program established under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396.

(4) The director shall not establish a fee for any service for which a licensure or inspection fee is paid by the health care provider to a state agency for the same or similar licensure or inspection.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) ~~"Health service~~ Service area" means ~~a geographic region designated by the director of health under section 3702.58 of the Revised Code the current and projected primary and secondary service areas to which the long-term care facility is, or will be, providing long-term care services.~~

(E) ~~"Health Primary service area"~~ means ~~a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service the geographic region, usually comprised of the Ohio zip code in which the long-term care facility is located and contiguous zip codes, from which approximately seventy-five to eighty per cent of the facility's residents currently originate or are expected to originate.~~

(F) ~~"Health Secondary service agency area"~~ means ~~an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code the geographic region, usually comprised of Ohio zip codes not included in the primary service area, excluding isolated exceptions, from which the facility's remaining residents currently originate or are expected to originate.~~

(G) ~~"Health care facility" means:~~

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

(2) ~~A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;~~

~~(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

~~(4) A freestanding dialysis center;~~

~~(5) A freestanding inpatient rehabilitation facility;~~

~~(6) An ambulatory surgical facility;~~

~~(7) A freestanding cardiac catheterization facility;~~

~~(8) A freestanding birthing center;~~

~~(9) A freestanding or mobile diagnostic imaging center;~~

~~(10) A freestanding radiation therapy center.~~

~~A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.~~

~~(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.~~

~~(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K)(I) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.~~

~~(J)(H) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.~~

~~(K)(I) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.~~

~~(L)~~(J) "Existing ~~health~~ long-term care facility" means either of the following:

(1) A ~~health~~ long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified ~~as of February 1, 2008,~~ under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, is staffed and equipped to provide ~~health~~ long-term care services, and is actively providing ~~health~~ long-term care services;

(2) A ~~health~~ long-term care facility that is licensed or otherwise authorized to operate in this state in accordance with applicable law, including a county home or a county nursing home that is certified ~~as of February 1, 2008,~~ under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or that has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided long-term care services for at least three hundred sixty-five consecutive days within the twenty-four months immediately preceding the date a certificate of need application is filed with the director of health.

~~(M)~~(K) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

~~(N)~~(L) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches.

~~(O)~~(M) "Affected person" means:

(1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question;

(2) The person that requested the reviewability ruling in question;

(3) Any person that resides or regularly uses ~~health~~ long-term care facilities within the ~~geographic~~ service area served or to be served by the ~~health~~ long-term care services that would be provided under the certificate of need or reviewability ruling in question;

(4) Any ~~health~~ long-term care facility that is located in the ~~health~~ service area where the ~~health~~ long-term care services would be provided under the certificate of need or reviewability ruling in question;

(5) Third-party payers that reimburse ~~health~~ long-term care facilities for

services in the health service area where the health long-term care services would be provided under the certificate of need or reviewability ruling in question;

~~(6) Any other person who testified at a public hearing held under division (B) of section 3702.52 of the Revised Code or submitted written comments in the course of review of the certificate of need application in question.~~

~~(P) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:~~

~~(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician;~~

~~(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;~~

~~(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.~~

~~(Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.~~

~~(R) Except as provided in division (S) of this section, "reviewable activity" means any of the following activities:~~

~~(1) The establishment, development, or construction of a new long-term care facility;~~

~~(2) The replacement of an existing long-term care facility;~~

~~(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;~~

~~(4) Either of the following changes in long-term care bed capacity:~~

~~(a) An increase in bed capacity;~~

~~(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site.~~

~~(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;~~

~~(6) The expenditure of more than one hundred ten per cent of the~~

~~maximum expenditure specified in a certificate of need concerning long-term care beds.~~

~~(S) "Reviewable activity" does not include any of the following activities:~~

- ~~(1) Acquisition of computer hardware or software;~~
- ~~(2) Acquisition of a telephone system;~~
- ~~(3) Construction or acquisition of parking facilities;~~
- ~~(4) Correction of cited deficiencies that are in violation of federal, state, or local fire, building, or safety laws and rules and that constitute an imminent threat to public health or safety;~~
- ~~(5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;~~
- ~~(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;~~
- ~~(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;~~
- ~~(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;~~
- ~~(9) Construction, repair, or renovation of bathroom facilities;~~
- ~~(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;~~
- ~~(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (S)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.~~
- ~~(12) Removal of asbestos from a health care facility.~~

~~Only that portion of a project that meets the requirements of this division is not a reviewable activity.~~

~~(T) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year.~~

~~(U)~~ "Children's hospital" means any of the following:

(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least ~~seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;~~

~~(2) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;~~

~~(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (U)(1) of this section.~~

~~(V)~~(N) "Long-term care facility" means any of the following:

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

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

~~(W)~~(O) "Long-term care bed" or "bed" means a bed in a long-term care facility that is categorized as one of the following:

(1) A bed that is located in a facility that is a nursing home licensed under section 3721.02 of the Revised Code or a facility licensed by a political subdivision certified under section 3721.09 of the Revised Code and is included in the authorized maximum licensed capacity of the facility;

(2) A bed that is located in the portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility under the medicare program or a nursing facility under the medicaid program and is included in the authorized maximum certified capacity of that portion of the facility;

(3) A bed that is registered under section 3701.07 of the Revised Code as a skilled nursing bed, a long-term care bed, or a special skilled nursing bed;

(4) A bed in a county home or county nursing home that has been

certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and is eligible for licensure as a nursing home bed;

(5) A bed held as an approved bed under a certificate of need approved by the director.

A bed cannot simultaneously be both a bed described in division (O)(1), (2), (3), or (4) of this section and a bed described in division (O)(5) of this section.

~~(X) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.~~

~~(Y)(1)(P) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.~~

~~(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.~~

~~(Z)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments.~~

~~(2) "Rural area" means any area of this state not located within a metropolitan statistical area.~~

~~(AA)(Q) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code.~~

~~(BB)(R) "Principal participant" means both of the following:~~

~~(1) A person who has an ownership or controlling interest of at least five per cent in an applicant, in a health long-term care facility that is the subject of an application for a certificate of need, or in the owner or operator of the applicant or such a facility;~~

~~(2) An officer, director, trustee, or general partner of an applicant, of a health long-term care facility that is the subject of an application for a certificate of need, or of the owner or operator of the applicant or such a facility.~~

~~(CC)(S) "Actual harm but not immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in actual harm that is not immediate jeopardy or represents widespread deficiencies resulting in actual harm that is not immediate jeopardy.~~

~~(DD)~~(T) "Immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in immediate jeopardy to resident health or safety or represents widespread deficiencies resulting in immediate jeopardy to resident health or safety.

(U) "Existing bed" or "existing long-term care bed" means a bed from an existing long-term care facility, a bed described in division (O)(5) of this section, or a bed correctly reported as a long-term care bed pursuant to section 5155.38 of the Revised Code.

Sec. 3702.511. (A) Except as provided in division (B) of this section, the following activities are reviewable under sections 3702.51 to 3702.62 of the Revised Code:

(1) Establishment, development, or construction of a new long-term care facility;

(2) Replacement of an existing long-term care facility;

(3) Renovation of or addition to a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;

(4) Either of the following changes in long-term care bed capacity:

(a) An increase in bed capacity;

(b) A relocation of beds from one physical facility or site to another, excluding relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site.

(5) Any change in the bed capacity or site, or any other failure to conduct a reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;

(6) Expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds.

(B) The following activities are not subject to review under sections 3702.51 to 3702.62 of the Revised Code:

(1) Acquisition of computer hardware or software;

(2) Acquisition of a telephone system;

(3) Construction or acquisition of parking facilities;

(4) Correction of cited deficiencies that constitute an imminent threat to public health or safety and are in violation of federal, state, or local fire, building, or safety statutes, ordinances, rules, or regulations;

(5) Acquisition of an existing long-term care facility that does not involve a change in the number of the beds;

(6) Mergers, consolidations, or other corporate reorganizations of long-term care facilities that do not involve a change in the number of beds;

(7) Construction, repair, or renovation of bathroom facilities;

(8) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;

(9) Removal of asbestos from a health care facility.

Only that portion of a project that is described in this division is not reviewable.

Sec. 3702.52. The director of health shall administer a state certificate of need program in accordance with sections 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections.

(A) The director shall issue rulings on whether a particular proposed project is a reviewable activity. The director shall issue a ruling not later than forty-five days after receiving a request for a ruling accompanied by the information needed to make the ruling. If the director does not issue a ruling in that time, the project shall be considered to have been ruled not a reviewable activity.

(B)(1) Each application for a certificate of need shall be submitted to the director on forms and in the manner prescribed by the director. Each application shall include a plan for obligating the capital expenditures or implementing the proposed project on a timely basis in accordance with section ~~3702.525~~ 3702.524 of the Revised Code. Each application shall also include all other information required by rules adopted under division (B) of section 3702.57 of the Revised Code.

(2) Each application shall be accompanied by the application fee established in rules adopted under division (G) of section 3702.57 of the Revised Code. Application fees received by the director under this division shall be deposited into the state treasury to the credit of the certificate of need fund, which is hereby created. The director shall use the fund only to pay the costs of administering sections 3702.11 to 3702.20, 3702.30, and 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections. An application fee is nonrefundable unless the director determines that the application cannot be accepted.

(3) The director shall review applications for certificates of need. As part of a review, the director shall determine whether an application is complete. The director shall not consider an application to be complete

unless the application meets all criteria for a complete application specified in rules adopted under section 3702.57 of the Revised Code. The director shall mail to the applicant a written notice that the application is complete, or a written request for additional information, not later than thirty days after receiving an application or a response to an earlier request for information. Except as provided in section ~~3702.523~~ 3702.522 of the Revised Code, the director shall not make more than two requests for additional information. The director's determination that an application is not complete is final and not subject to appeal.

~~The director may conduct a public informational hearing in the course of reviewing any application for a certificate of need, and shall conduct one if requested to do so by any affected person not later than fifteen days after the director mails the notice that the application is complete. The hearing shall be conducted in the community in which the activities authorized by the certificate of need would be carried out. Any affected person may testify at the hearing. The director may, with the health service agency's consent, designate a health service agency to conduct the hearing.~~

(4) ~~Except during a public hearing or as necessary to comply with a subpoena issued under division (E)(F) of this section, after a notice of completeness has been received, no person shall make revisions to information that was submitted to the director before the director mailed the notice of completeness or knowingly discuss in person or by telephone the merits of the application with the director. A person may supplement an application after a notice of completeness has been received by submitting clarifying information to the director. If one or more persons request a meeting in person or by telephone, the director shall make a reasonable effort to invite interested parties to the meeting or conference call.~~

(C) All of the following apply to the process of granting or denying a certificate of need:

(1) If the project proposed in a certificate of need application meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections, the director shall grant a certificate of need for all or part of the project that is the subject of the application by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section.

(2) The director's grant of a certificate of need does not affect, and sets no precedent for, the director's decision to grant or deny other applications for similar reviewable activities ~~proposed to be conducted in the same or different health service areas.~~

~~(3) If the director receives written objections to an application from any Any affected person may submit written comments regarding an application. The director shall consider all written comments received by the thirtieth day after mailing the notice of completeness, the director shall notify the applicant and assign a hearing examiner to conduct an adjudication hearing concerning the application in accordance with Chapter 119. of the Revised Code. In or, in the case of applications under comparative review, if the director receives written objections to any of the applications from any affected person by the thirtieth day after the director mails the last notice of completeness, the director shall notify all of the applicants and appoint a hearing examiner to conduct a consolidated adjudication hearing concerning the applications in accordance with Chapter 119. of the Revised Code. The hearing examiner shall be employed by or under contract with the department of health.~~

~~The adjudication hearings may be conducted in the health service area in which the reviewable activity is proposed to be conducted. Consolidated adjudication hearings for applications in comparative review may be conducted in the geographic region in which all of the reviewable activities will be conducted. The applicant, the director, and the affected persons that filed objections to the application shall be parties to the hearing. If none of the affected persons that submitted written objections to the application appears or prosecutes the hearing, the hearing examiner shall dismiss the hearing and the director shall grant a certificate of need for all or part of the project that is the subject of the application if the proposed project meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections. The affected persons bear the burden of proving by a preponderance of evidence that the project is not needed or that granting the certificate would not be in accordance with sections 3702.51 to 3702.62 of the Revised Code or the rules adopted under those sections.~~

~~(4) Except as provided in division (C)(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is not conducted under division (C)(3) of this section not later than sixty days after mailing the notice of completeness or, in the case of an application proposing addition of long term care beds, not later than sixty days after such other time as is specified in rules adopted under section 3702.57 of the Revised Code. Except as provided in division (C)(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is conducted under division (C)(3) of this section not later than thirty days after the expiration of the time for filing~~

~~objections to the report and recommendation of the hearing examiner under section 119.09 of the Revised Code. The director shall base decisions concerning applications for which an adjudication hearing is conducted under division (C)(3) of this section on the report and recommendations of the hearing examiner.~~

(5) Except as otherwise provided in division (C)(6) of this section, the director or the applicant may extend the deadline prescribed in division (C)(4) of this section once, for no longer than thirty days, by written notice before the end of the deadline prescribed by division (C)(4) of this section. An extension by the director under division (C)(5) of this section shall apply to all applications that are in comparative review.

(6) No applicant in a comparative review may extend the deadline specified in division (C)(4) of this section.

(7) If the director does not grant or deny the certificate by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section, the certificate shall be considered to have been granted.

(8) In granting a certificate of need, the director shall specify as the maximum capital expenditure the certificate holder may obligate under the certificate a figure equal to one hundred ten per cent of the approved project cost.

(9) In granting a certificate of need, the director may grant the certificate with conditions that must be met by the holder of the certificate.

(D) When a certificate of need is granted for a project under which beds are to be relocated, upon completion of the project for which the certificate of need was granted a number of beds equal to the number of beds relocated shall cease to be operated in the long-term care facility from which they are relocated, except that the beds may continue to be operated for not more than fifteen days to allow relocation of residents to the facility to which the beds have been relocated. Notwithstanding section 3721.03 of the Revised Code, if the relocated beds are in a home licensed under Chapter 3721. of the Revised Code, the facility's license is automatically reduced by the number of beds relocated effective fifteen days after the beds are relocated. If the beds are in a facility that is certified as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," the certification for the beds shall be surrendered. If the beds are registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds, the director shall remove the beds from registration not later than fifteen days after the beds are relocated.

(E) The director shall monitor the activities of persons granted

certificates of need during the period beginning with the granting of the certificate of need and ending five years after implementation of the activity for which the certificate was granted.

~~(E)~~(F) When reviewing applications for certificates of need, considering appeals under section 3702.60 of the Revised Code, or monitoring activities of persons granted certificates of need, the director may issue and enforce, in the manner provided in section 119.09 of the Revised Code, subpoenas and subpoenas duces tecum to compel ~~the production of a person to testify and produce~~ documents relevant to review of the application, consideration of the appeal, or monitoring of the activities. In addition, the director or the director's designee, ~~which may include a health service agency~~, may visit the sites where the activities are or will be conducted.

~~(F)~~(G) The director may withdraw certificates of need.

~~(G) The director shall conduct, on a regular basis, health system data collection and analysis activities and prepare reports. The director shall make recommendations based upon these activities to the public health council concerning the adoption of appropriate rules under section 3702.57 of the Revised Code.~~ (H) All health long-term care facilities and other health care providers shall submit to the director, upon request, any information prescribed by rules adopted under division (H) of section 3702.57 of the Revised Code that is necessary to conduct reviews of certificate of need applications and to develop ~~recommendations for criteria for reviews, and that is prescribed by rules adopted under division (H) of section 3702.57 of the Revised Code.~~

~~(H)~~(I) Any decision to grant or deny a certificate of need shall consider the special needs and circumstances resulting from moral and ethical values and the free exercise of religious rights of health long-term care facilities administered by religious organizations, and the special needs and circumstances of inner city and rural communities.

~~Sec. 3702.522~~ 3702.521. (A) Reviews of applications for certificates of need to recategorize hospital beds to skilled nursing beds shall be conducted in accordance with this division and rules adopted by the ~~public~~ director of health council.

(1) No hospital recategorizing beds shall apply for a certificate of need for more than twenty skilled nursing beds.

(2) No beds for which a certificate of need is requested under this division shall be reviewed under or counted in any formula developed under ~~public health council~~ rules adopted by the director for the purpose of determining the number of long-term care beds that may be needed within the state.

(3) No beds shall be approved under this division unless the hospital certifies and demonstrates in the application that the beds will be dedicated to patients with a length of stay of no more than thirty days.

(4) No beds shall be approved under this division unless the hospital can satisfactorily demonstrate in the application that it is routinely unable to place the patients planned for the beds in accessible skilled nursing facilities.

(5) In developing rules to implement this division, the ~~public health council~~ director shall give special attention to the required documentation of the need for such beds, including the efforts made by the hospital to place patients in suitable skilled nursing facilities, and special attention to the appropriate size of units with such beds given the historical pattern of the applicant hospital's documented difficulty in placing skilled nursing patients.

(B) ~~To assist the director of health~~ For assistance in monitoring the use of hospital beds recategorized as skilled nursing beds after August 5, 1989, the ~~public health council~~ director shall adopt rules specifying appropriate quarterly procedures for reporting to the department of health.

(C) A patient may stay in a hospital bed that, after August 5, 1989, has been recategorized as a skilled nursing bed for more than thirty days if the hospital is able to demonstrate that it made a good faith effort to place the patient in an accessible skilled nursing facility acceptable to the patient within the thirty-day period, but was unable to do so.

(D) No hospital bed recategorized after August 5, 1989, as a skilled nursing bed shall be covered by a provider agreement under the medical assistance program established under Chapter 5111. of the Revised Code.

(E) Nothing in this section requires a hospital to place a patient in any nursing home if the patient does not wish to be placed in the nursing home. Nothing in this section limits the ability of a hospital to file a certificate of need application for the addition of long-term care beds that meet the definition of "home" in section 3721.01 of the Revised Code. Nothing in this section limits the ability of the director to grant certificates of need necessary for hospitals to engage in demonstration projects authorized by the federal government for the purpose of enhancing long-term quality of care and cost containment. Nothing in this section limits the ability of hospitals to develop swing bed programs in accordance with federal regulations.

No hospital that is granted a certificate of need after August 5, 1989, to recategorize hospital beds as skilled nursing beds is subject to sections 3721.01 to 3721.09 of the Revised Code. If the portion of the hospital in

which the recategorized beds are located is certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that portion of the hospital is subject to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of the Revised Code. If the beds are registered pursuant to section 3701.07 of the Revised Code as long-term care beds, the beds are subject to sections 3721.50 to 3721.58 of the Revised Code.

~~(F) The public health council shall adopt rules authorizing the creation of one or more nursing home placement clearinghouses. Any public or private agency or facility may apply to the department of health to serve as a nursing home placement clearinghouse, and the rules shall provide the procedure for application and process for designation of clearinghouses.~~

~~The department may approve one or more clearinghouses, but in no event shall there be more than one nursing home placement clearinghouse in each county. Any nursing home may list with a nursing home placement clearinghouse the services it provides and the types of patients it is approved for and equipped to serve. The clearinghouse shall make reasonable efforts to update its information at least every six months.~~

~~If an appropriate clearinghouse has been designated, each hospital granted a certificate of need after August 5, 1989, to recategorize hospital beds as skilled nursing beds shall, and any other hospital may, utilize the nursing home placement clearinghouse prior to admitting a patient to a skilled nursing bed within the hospital and prior to keeping a patient in a skilled nursing bed within a hospital in excess of thirty days.~~

~~The department shall provide at least annually to all hospitals a list of the designated nursing home placement clearinghouses.~~

Sec. ~~3702.523~~ 3702.522. A person who has an application for a certificate of need pending with the director of health may revise the application to change the site of the proposed project unless either of the following applies:

(A) The director, under section 3702.52 of the Revised Code, has mailed the applicant a written notice that the application is complete.

(B) The application is subject to a comparative review under section 3702.593 of the Revised Code.

The only revision that may be made in the revised application is the site of the proposed project. The revised site of the proposed project must be located in the same county as the site of the proposed project specified in the original application. The director may not accept a revised application if it includes revisions other than the site of the proposed project or if the revised site is located in a different county than the county in which the site

specified in the original application is located.

A revised application shall be accompanied by an additional, ~~non-refundable~~ nonrefundable fee equal to twenty-five per cent of the fee charged under section 3702.52 of the Revised Code for the original application. The additional fee shall be deposited into the certificate of need fund created under section 3702.52 of the Revised Code.

On acceptance of a revised application, the director shall continue to review the application as revised in accordance with section 3702.52 of the Revised Code to determine whether it is complete and, if necessary and regardless of whether the director previously made two requests for additional information, may make a final written request to the applicant for additional information not later than thirty days after the date the director accepts the revised application.

Sec. ~~3702.524~~ 3702.523. (A) Except as provided in division (B) of this section, a certificate of need ~~granted on or after April 20, 1995,~~ is not transferable prior to the completion of the reviewable activity for which it was granted. If any person holding a certificate of need ~~issued on or after that date~~ transfers the certificate of need to another person before the reviewable activity is completed, or enters into an agreement that contemplates the transfer of the certificate of need on the completion of the reviewable activity, the certificate of need is void. If the controlling interest in an entity that holds a certificate of need ~~issued on or after that date~~ is transferred prior to the completion of the reviewable activity, the certificate of need is void.

(B) Division (A) of this section does not prohibit the transfer of a certificate of need ~~issued on or after April 20, 1995,~~ between affiliated or related persons, as defined in rules adopted under section 3702.57 of the Revised Code, if the transfer does not result in a change in the person that holds the ultimate controlling interest, as defined in the rules, in the certificate of need.

The transfer of a ~~health~~ long-term care facility after the completion of a reviewable activity for which a certificate of need was issued ~~on or after April 20, 1995,~~ is not a transfer of the certificate of need, unless the facility is transferred pursuant to an agreement entered into prior to the completion of the reviewable activity.

Sec. ~~3702.525~~ 3702.524. (A) Not later than twenty-four months after the date the director of health mails the notice that the certificate of need has been granted or, if the grant or denial of the certificate of need is appealed under section 3702.60 of the Revised Code, not later than twenty-four months after issuance of an order granting the certificate that is not subject

to further appeal, each person holding a certificate of need granted ~~on or~~
~~after April 20, 1995~~, shall:

(1) If the project for which the certificate of need was granted primarily involves construction and is to be financed primarily through external borrowing of funds, secure financial commitment for the stated purpose of developing the project and commence construction that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events;

(2) If the project for which the certificate of need was granted primarily involves construction and is to be financed primarily internally, receive formal approval from the holder's board of directors or trustees or other governing authority to commit specified funds for implementation of the project and commence construction that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events;

~~(3) If the project for which the certificate of need was granted primarily involves acquisition of medical equipment, enter into a contract to purchase or lease the equipment and to accept the equipment at the site for which the certificate was granted;~~

(4) If the project for which the certificate of need was granted involves no capital expenditure or only minor renovations to existing structures, provide the health long-term care service ~~or activity~~ by the means specified in the approved application for the certificate;

~~(5)~~(4) If the project for which the certificate of need was granted primarily involves leasing a building or space that requires only minor renovations to the existing space, execute a lease and provide the health long-term care service ~~or activity~~ by the means specified in the approved application for the certificate;

~~(6)~~(5) If the project for which the certificate of need was granted primarily involves leasing a building or space that has not been constructed or requires substantial renovations to existing space, commence construction for the purpose of implementing the reviewable activity that continues uninterrupted except for interruptions or delays that are unavoidable due to reasons beyond the person's control, including labor strikes, natural disasters, material shortages, or comparable events.

(B) The twenty-four-month period specified in division (A) of this section shall not be extended by any means, including the granting of a subsequent or replacement certificate of need. Each person holding a

certificate of need ~~granted on or after April 20, 1995~~, shall provide the director of health documentation of compliance with that division not later than the earlier of thirty days after complying with that division or five days after the twenty-four-month period expires. Not later than the earlier of fifteen days after receiving the documentation or fifteen days after the twenty-four-month period expires, the director shall send by certified mail a notice to the holder of the certificate of need specifying whether the holder has complied with division (A) of this section.

~~(C) Notwithstanding division (B) of this section, the twenty-four-month period specified in division (A) of this section shall be extended for an additional twenty-four months for any certificate of need granted for the purchase and relocation of licensed nursing home beds on February 26, 1999.~~

~~(D)~~ A certificate of need ~~granted on or after April 20, 1995~~, expires, regardless of whether the director sends a notice under division (B) of this section, if the holder fails to comply with division (A) ~~or (C)~~ of this section or to provide information under division (B) of this section as necessary for the director to determine compliance. The determination by the director that a certificate of need has expired is final and not appealable under Chapter 119. of the Revised Code.

~~Sec. 3702.526~~ 3702.525. Every six months after complying with section ~~3702.525~~ 3702.524 of the Revised Code, the holder of the certificate of need shall demonstrate to the director of health, in the form and manner required by rules adopted under section 3702.57 of the Revised Code, that reasonable progress is being made toward the completion of the reviewable activity. If the director determines, in accordance with standards specified in the rules, that reasonable progress is not being made, ~~he~~ the director shall withdraw the certificate of need.

Sec. 3702.526. (A) Except as provided in division (B) of this section, the director of health shall accept an application for a replacement certificate of need for an activity described in division (A)(5) of section 3702.511 of the Revised Code to replace an approved certificate of need for that activity if all of the following conditions are met:

(1) The applicant is the same as the applicant for the approved certificate of need or an affiliated or related person as described in division (B) of section 3702.523 of the Revised Code.

(2) The source of any long-term care beds to be relocated is the same as in the approved certificate of need.

(3) The application for the approved certificate of need was not subject to comparative review under section 3702.593 of the Revised Code.

(B) The director shall not accept an application for a replacement certificate that proposes to increase the number of long-term care beds to be relocated specified in the application for the approved certificate of need.

(C) For the purpose of determining whether long-term care beds are from an existing long-term care facility, the director shall consider the date of filing of the application for a replacement certificate to be the same as the date of filing of the original application for the approved certificate of need.

(D) Any long-term care beds that were approved in the approved certificate of need remain approved in the application for a replacement certificate.

(E) The applicant shall submit with the application for a replacement certificate a nonrefundable fee equal to the application fee for the approved certificate of need.

(F) Upon approval of the application for a replacement certificate, the original certificate of need is automatically voided.

Sec. 3702.527. A bed described in division (O)(5) of section 3702.51 of the Revised Code may be converted to a bed described in division (O)(1), (2), (3), or (4) of that section only as provided in the certificate of need under which the beds were approved or its replacement certificate of need.

Sec. 3702.53. (A) No person shall carry out any reviewable activity unless a certificate of need for such activity has been granted under sections 3702.51 to 3702.62 of the Revised Code or the person is exempted by division ~~(S)(B)~~ of section ~~3702.51~~ 3702.511 or section ~~3702.5210~~ or ~~3702.62~~ of the Revised Code from the requirement that a certificate of need be obtained. No person shall carry out any reviewable activity if a certificate of need authorizing that activity has been withdrawn by the director of health under section 3702.52 or ~~3702.526~~ 3702.525 of the Revised Code. No person shall carry out a reviewable activity if the certificate of need authorizing that activity is void pursuant to section ~~3702.524~~ 3702.523 of the Revised Code or has expired pursuant to section ~~3702.525~~ 3702.524 of the Revised Code.

(B) No person shall separate portions of any proposal for any reviewable activity to evade the requirements of sections 3702.51 to 3702.62 of the Revised Code.

(C) No person granted a certificate of need shall carry out the reviewable activity authorized by the certificate of need other than in substantial accordance with the approved application for the certificate of need.

Sec. 3702.531. The director of health shall evaluate and may investigate evidence that appears to demonstrate that any person has violated section

3702.53 of the Revised Code. If the director elects to conduct an investigation, ~~he~~ the director shall mail to the alleged violator by certified mail, return receipt requested, a notice that an investigation is underway.

When conducting an investigation under this section, the director may request any relevant information pertaining to the alleged violation, including the total operating cost of the activity in question during the period of the alleged violation and the total capital cost associated with implementation of the activity. A person shall provide information requested by the director not later than forty-five days after receiving the director's request. The director also may issue and enforce, in the manner provided in Chapter 119. of the Revised Code, subpoenas duces tecum to compel the production of documents relevant to the alleged violation. The subpoenas may be served in any manner authorized by the rules of civil procedure.

The director or ~~his~~ the director's designee, ~~which may include a health service agency,~~ may conduct a site visit to investigate an alleged violation of section 3702.53 of the Revised Code.

Each investigation under this section shall be conducted in a manner that protects patient confidentiality. Names or other identifying information about any patient shall not be made public without the written consent of the patient or ~~his~~ the patient's guardian, or, if the patient is a minor, ~~his~~ the patient's parent or guardian.

Sec. 3702.54. Except as provided in section 3702.541 of the Revised Code, divisions (A) and (B) of this section apply when the director of health determines that a person has violated section 3702.53 of the Revised Code.

(A) The director shall impose a civil penalty on the person in an amount equal to the greatest of the following:

- (1) Three thousand dollars;
- (2) Five per cent of the operating cost of the activity that constitutes the violation during the period of time it was conducted in violation of section 3702.53 of the Revised Code;
- (3) If a certificate of need was granted, two per cent of the total approved capital cost associated with implementation of the activity for which the certificate of need was granted.

In no event, however, shall the penalty exceed two hundred fifty thousand dollars.

(B)(1) Notwithstanding section 3702.52 of the Revised Code, the director shall refuse to accept for review any application for a certificate of need filed by or on behalf of the person, or any successor to the person or entity related to the person, for a period of not less than one year and not more than three years after the director mails the notice of the director's

determination under section 3702.532 of the Revised Code or, if the determination is appealed under section 3702.60 of the Revised Code, the issuance of the order upholding the determination that is not subject to further appeal. In determining the length of time during which applications will not be accepted, the director may consider any of the following:

- (a) The nature and magnitude of the violation;
- (b) The ability of the person to have averted the violation;
- (c) Whether the person disclosed the violation to the director before the director commenced his investigation;
- (d) The person's history of compliance with sections 3702.51 to 3702.62 and the rules adopted under section 3702.57 of the Revised Code;
- (e) Any community hardship that may result from refusing to accept future applications from the person.

(2) Notwithstanding the one-year minimum imposed by division (B)(1) of this section, the director may establish a period of less than one year during which the director will refuse to accept certificate of need applications if, after reviewing all information available to the director, the director determines and expressly indicates in the notice mailed under section 3702.532 of the Revised Code that refusing to accept applications for a longer period would result in hardship to the community in which the person provides ~~health~~ long-term care services. The director's finding of community hardship shall not affect the granting or denial of any future certificate of need application filed by the person.

Sec. 3702.55. A person that the director of health determines has violated section 3702.53 of the Revised Code shall cease conducting the activity that constitutes the violation or utilizing the ~~equipment or~~ facility resulting from the violation not later than thirty days after the person receives the notice mailed under section 3702.532 of the Revised Code or, if the person appeals the director's determination under section 3702.60 of the Revised Code, thirty days after the person receives an order upholding the director's determination that is not subject to further appeal.

If any person determined to have violated section 3702.53 of the Revised Code fails to cease conducting an activity or using ~~equipment or~~ a facility as required by this section or if the person continues to seek payment or reimbursement for services rendered or costs incurred in conducting the activity as prohibited by section 3702.56 of the Revised Code, in addition to the penalties imposed under section 3702.54 or 3702.541 of the Revised Code:

- (A) The director of health may refuse to include any beds involved in the activity in the bed capacity of a hospital for purposes of registration

under section 3701.07 of the Revised Code;

(B) The director of health may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a hospice care program under section 3712.04 of the Revised Code; a nursing home, ~~rest home~~ residential care facility, or home for the aging under section 3721.02 of the Revised Code; or any beds within any of those facilities that are involved in the activity;

(C) A political subdivision certified under section 3721.09 of the Revised Code may refuse to license, or may revoke a license or reduce bed capacity previously granted to, a nursing home, ~~rest home~~ residential care facility, or home for the aging, or any beds within any of those facilities that are involved in the activity;

(D) The director of mental health may refuse to license under section 5119.20 of the Revised Code, or may revoke a license or reduce bed capacity previously granted to, a hospital receiving mentally ill persons or beds within such a hospital that are involved in the activity;

(E) The department of job and family services may refuse to enter into a provider agreement that includes a facility, beds, or services that result from the activity.

Sec. 3702.56. No third-party payer or other person ~~or government entity~~ is required to pay, and no person shall seek or accept payment or reimbursement for, any service rendered or costs incurred in conducting an activity during the period of time in which the activity was conducted in violation of section 3702.53 of the Revised Code. Each person that accepts any amount in violation of this division shall refund that amount on request of the person ~~or government entity~~ that paid it.

Sec. 3702.57. (A) The ~~public~~ director of health ~~council~~ shall adopt rules establishing procedures and criteria for reviews of applications for certificates of need and issuance, denial, or withdrawal of certificates.

(1) In adopting rules that establish criteria for reviews of applications of certificates of need, the ~~council~~ director shall consider the availability of and need for long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries and shall prescribe criteria for reviewing applications that propose to add long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries.

(2) The criteria for reviews of applications for certificates of need shall relate to the need for the reviewable activity and shall pertain to all of the following matters:

(a) The impact of the reviewable activity on the cost and quality of ~~health~~ long-term care services in the relevant ~~geographic~~ service area,

including, but not limited, to the historical and projected utilization of the services to which the application pertains and the effect of the reviewable activity on utilization of other providers of similar services;

(b) The quality of the services to be provided as the result of the activity, as evidenced by the historical performance of the persons that will be involved in providing the services and by the provisions that are proposed in the application to ensure quality, including but not limited to adequate available personnel, available ancillary and support services, available equipment, size and configuration of physical plant, and relations with other providers;

(c) The impact of the reviewable activity on the availability and accessibility of the type of services proposed in the application to the population of the relevant ~~geographic~~ service area, and the level of access to the services proposed in the application that will be provided to medically underserved individuals such as recipients of public assistance and individuals who have no health insurance or whose health insurance is insufficient;

(d) The activity's short- and long-term financial feasibility and cost-effectiveness, the impact of the activity on the applicant's costs and charges, and a comparison of the applicant's costs and charges with those of providers of similar services in the applicant's proposed service area;

(e) The advantages, disadvantages, and costs of alternatives to the reviewable activity;

(f) The impact of the activity on all other providers of similar services in the ~~health service area or other~~ relevant ~~geographic~~ service area, including the impact on their utilization, market share, and financial status;

(g) The historical performance of the applicant and related or affiliated parties in complying with previously granted certificates of need and any applicable certification, accreditation, or licensure requirements;

~~(h) The relationship of the activity to the current edition of the state health resources plan issued under section 3702.521 of the Revised Code;~~

~~(i)~~ The historical performance of the applicant and related or affiliated parties in providing cost-effective ~~health~~ long-term care services;

~~(j)~~(i) The special needs and circumstances of the applicant or population proposed to be served by the proposed project, including research activities, prevalence of particular diseases, unusual demographic characteristics, cost-effective contractual affiliations, and other special circumstances;

~~(k)~~(j) The appropriateness of the zoning status of the proposed site of the activity;

~~(l)~~(k) The participation by the applicant in research conducted by the

United States food and drug administration or clinical trials sponsored by the national institutes of health.

(3) The criteria for reviews of applications shall include a formula for determining each county's long-term care bed need for purposes of section 3702.593 of the Revised Code and may include other formulas for determining need for beds.

Any rules prescribing criteria that establish ratios of beds to population shall specify the bases for establishing the ratios or mitigating factors or exceptions to the ratios.

(B) The ~~council~~ director shall adopt rules specifying all of the following:

(1) Information that must be provided in applications for certificates of need;

(2) Procedures for reviewing applications for completeness of information;

(3) Criteria for determining that the application is complete.

(C) The ~~council~~ director shall adopt rules specifying requirements that holders of certificates of need must meet in order for the certificates to remain valid and establishing definitions and requirements for obligation of capital expenditures and implementation of projects authorized by certificates of need.

(D) The ~~council~~ director shall adopt rules establishing criteria and procedures under which the director of health may withdraw a certificate of need if the holder fails to meet requirements for continued validity of the certificate.

(E) The ~~council~~ director shall adopt rules establishing procedures under which the department of health shall monitor project implementation activities of holders of certificates of need. The rules adopted under this division also may establish procedures for monitoring implementation activities of persons that have received nonreviewability rulings.

(F) The ~~council~~ director shall adopt rules establishing procedures under which the director of health shall review certificates of need whose holders exceed or appear likely to exceed an expenditure maximum specified in a certificate.

(G) The ~~council~~ director shall adopt rules establishing certificate of need application fees sufficient to pay the costs incurred by the department for administering sections 3702.51 to 3702.62 of the Revised Code ~~and to pay health service agencies for the functions they perform under division (D)(5) of section 3702.58 of the Revised Code~~. Unless rules are adopted under this division establishing different application fees, the application fee for a

project not involving a capital expenditure shall be three thousand dollars and the application fee for a project involving a capital expenditure shall be nine-tenths of one per cent of the capital expenditure proposed subject to a minimum of three thousand dollars and a maximum of twenty thousand dollars.

(H) The ~~council~~ director shall adopt rules specifying information that is necessary to conduct reviews of certificate of need applications and to develop ~~recommendations for~~ criteria for reviews that health long-term care facilities and other health care providers are to submit to the director under division ~~(G)~~(H) of section 3702.52 of the Revised Code.

(I) The ~~council~~ director shall adopt rules defining "affiliated person," "related person," and "ultimate controlling interest" for purposes of section ~~3702.524~~ 3702.523 of the Revised Code.

(J) The ~~council~~ director shall adopt rules prescribing requirements for holders of certificates of need to demonstrate to the director under section ~~3702.526~~ 3702.525 of the Revised Code that reasonable progress is being made toward completion of the reviewable activity and establishing standards by which the director shall determine whether reasonable progress is being made.

(K) The ~~public health council~~ director shall adopt all rules under divisions (A) to (J) of this section in accordance with Chapter 119. of the Revised Code. The ~~council~~ director may adopt other rules as necessary to carry out the purposes of sections 3702.51 to 3702.62 of the Revised Code.

Sec. 3702.59. (A) The director of health shall accept for review certificate of need applications as provided in sections 3702.592, 3702.593, and 3702.594 of the Revised Code.

(B)(1) The director shall not approve an application for a certificate of need for the addition of long-term care beds to an existing health long-term care facility or for the development of a new health long-term care facility if any of the following apply:

(a) The existing health long-term care facility in which the beds are being placed has one or more waivers for life safety code deficiencies, one or more state fire code violations, or one or more state building code violations, and the project identified in the application does not propose to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing health long-term care facility in which the beds are being placed;

(b) During the sixty-month period preceding the filing of the application, a notice of proposed license revocation was issued under section 3721.03 of the Revised Code for the existing health long-term care facility

in which the beds are being placed or a nursing home owned or operated by the applicant or a principal participant.

(c) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing ~~health~~ long-term care facility in which the beds are being placed, any of the following occurred:

(i) The facility was cited on three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies.

(ii) The facility was cited on two or more separate occasions for final, nonappealable immediate jeopardy deficiencies.

(iii) The facility was cited on two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(d) More than two nursing homes owned or operated in this state by the applicant or a principal participant or, if the applicant or a principal participant owns or operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited during the period that precedes the filing of the application for the certificate of need and is encompassed by the three most recent standard surveys of the nursing homes that were so cited in any of the following manners:

(i) On three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies;

(ii) On two or more separate occasions for final, nonappealable immediate jeopardy deficiencies;

(iii) On two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(2) In applying divisions (B)(1)(a) to (d) of this section, the director shall not consider deficiencies or violations cited before the applicant or a principal participant acquired or began to own or operate the ~~health~~ long-term care facility at which the deficiencies or violations were cited. The director may disregard deficiencies and violations cited after the ~~health~~ long-term care facility was acquired or began to be operated by the applicant or a principal participant if the deficiencies or violations were attributable to circumstances that arose under the previous owner or operator and the applicant or principal participant has implemented measures to alleviate the circumstances. In the case of an application proposing development of a new ~~health~~ long-term care facility by relocation of beds, the director shall not consider deficiencies or violations that were solely attributable to the physical plant of the existing ~~health~~ long-term care facility from which the

beds are being relocated.

(C) The director also shall accept for review any application for the conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

- (1) Is operated exclusively by a religious order;
- (2) 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;
- (3) Was providing care exclusively to members of such a religious order on January 1, 1994.

(D) Notwithstanding division (C)(2) of this section, a facility that has been granted a certificate of need under division (C) of this section may provide care to any of the following family members of the individuals described in division (C)(2) of this section: mothers, fathers, brothers, sisters, brothers-in-law, sisters-in-law, or children.

The long-term care beds in a facility that have been granted a certificate of need under division (C) of this section may not be relocated pursuant to sections 3702.592 to 3702.594 of the Revised Code.

Sec. 3702.592. (A) The director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for any of the following purposes if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing ~~health~~ long-term care facility within the same county:

- (1) Approval of beds in a new ~~health~~ long-term care facility or an increase of beds in an existing ~~health~~ long-term care facility if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;
- (2) Approval of beds in a new county home or new county nursing home, or an increase of beds in an existing county home or existing county nursing home if the beds are proposed to be certified as skilled nursing facility beds under the medicare program, Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under the medicaid program, Title XIX of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended;
- (3) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds;
- (4) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as special skilled nursing beds that were originally authorized by and are operated in accordance with section ~~3702.522~~ 3702.521 of the Revised Code.

(B) The director shall accept applications described in division (A) of this section at any time.

Sec. 3702.593. (A) At the times specified in this section, the director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for any of the following purposes if the proposed increase in beds is attributable solely to relocation of existing beds from an existing ~~health~~ long-term care facility in a county with excess beds to a ~~health~~ long-term care facility in a county in which there are fewer long-term care beds than the county's bed need:

(1) Approval of beds in a new ~~health~~ long-term care facility or an increase of beds in an existing ~~health~~ long-term care facility if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(2) Approval of beds in a new county home or new county nursing home, or an increase of beds in an existing county home or existing county nursing home if the beds are proposed to be certified as skilled nursing facility beds under the medicare program, Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1395, as amended, or nursing facility beds under the medicaid program, Title XIX of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C. 1396, as amended;

(3) An increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds.

(B) For the purpose of implementing this section, the director shall do all of the following:

(1) ~~Determine~~ Not later than April 1, 2012, and every four years thereafter, determine the long-term care bed supply for each county, which shall consist of all of the following:

(a) Nursing home beds licensed under Chapter 3721. of the Revised Code;

(b) Beds certified as skilled nursing facility beds under the medicare program or nursing facility beds under the medicaid program;

(c) Beds in any portion of a hospital that are properly registered under section 3701.07 of the Revised Code as skilled nursing beds, long-term care beds, or special skilled nursing beds;

(d) Beds in a county home or county nursing home that are certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and are eligible for licensure as nursing home beds;

~~(d)(e) Beds held as approved long-term care beds under a certificate of need approved by the director~~ described in division (O)(5) of section 3702.51 of the Revised Code.

(2) Determine the long-term care bed occupancy rate for the state at the time the determination is made;

(3) For each county, determine the county's bed need by identifying the number of long-term care beds that would be needed in the county in order for the statewide occupancy rate for a projected population aged sixty-five and older to be ninety per cent.

In determining each county's bed need, the director shall use the formula developed in rules adopted under section 3702.57 of the Revised Code. ~~The director's first determination after the effective date of this section shall be made not later than April 1, 2010. The second determination shall be made not later than April 1, 2012. Thereafter, a~~ A determination shall be made every four years. After each determination is made, the director shall publish the county's bed need on the web site maintained by the department of health.

(C) The director's consideration of a certificate of need that would increase the number of beds in a county shall be consistent with the county's bed need determined under division (B) of this section except as follows:

(1) If a county's occupancy rate is less than eighty-five per cent, the county shall be considered to have no need for additional beds.

(2) Even if a county is determined not to need any additional long-term care beds, the director may approve an increase in beds equal to up to ten per cent of the county's bed supply if the county's occupancy rate is greater than ninety per cent.

~~(D)(1) Applications made under this section shall be subject to comparative review. The review period for the first comparative review process after the effective date of this section shall begin July 1, 2010, and end June 30, 2012. The next review period shall begin July 1, 2012, and end June 30, 2016. Thereafter, the review period for each comparative review process shall begin on the first day of July following the end of the previous review period and shall be four years.~~

(2) Certificate of need applications shall be accepted during the first month of the review period and reviewed ~~from the first day of the review period~~ through the thirtieth day of April of the following year.

(3) Except for the first review period after ~~the effective date of this section~~ October 16, 2009, each review period may consist of two phases. The first phase of the review period shall be the period during which the director accepts and reviews certificate of need applications as provided in division (D)(2) of this section. If the director determines that there will be acceptance and review of additional certificate of need applications, the second phase of the review period shall begin on the first day of July of the

third year of the review period. The second phase shall be limited to acceptance and review of applications for redistribution of beds made available pursuant to division ~~(G)~~~~(2)~~~~(I)~~ of this section. During the period between the first and second phases of the review period, the director shall act in accordance with division ~~(H)~~~~(I)~~ of this section.

(E) The director shall consider certificate of need applications in accordance with all of the following:

(1) The number of beds approved for a county shall include only beds available for relocation from another county and shall not exceed the bed need of the receiving county;

(2) The director shall consider the existence of community resources serving persons who are age sixty-five or older or disabled that are demonstrably effective in providing alternatives to long-term care facility placement.

(3) The director shall approve relocation of beds from a county only if, after the relocation, the number of beds remaining in the county will exceed the county's bed need by at least one hundred beds;

(4) The director shall approve relocation of beds from a ~~health~~ long-term care facility only if, after the relocation, the number of beds in the facility's service area is at least equal to the state bed need rate. For purposes of this division, a facility's service area shall be either of the following:

(a) The census tract in which the facility is located, if the facility is located in an area designated by the United States secretary of health and human services as a health professional shortage area under the "Public Health Service Act," 88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended;

(b) The area that is within a fifteen-mile radius of the facility's location, if the facility is not located in a health professional shortage area.

(F) Applications made under this section are subject to comparative review if two or more applications are submitted during the same review period and any of the following applies:

(1) The applications propose to relocate beds from the same county and the number of beds for which certificates of need are being requested totals more than the number of beds available in the county from which the beds are to be relocated.

(2) The applications propose to relocate beds to the same county and the number of beds for which certificates of need are being requested totals more than the number of beds needed in the county to which the beds are to be relocated.

(3) The applications propose to relocate beds from the same service area and the number of beds left in the service area from which the beds are

being relocated would be less than the state bed need rate determined by the director.

(G) In determining which applicants should receive preference in the comparative review process, the director shall consider all of the following as weighted priorities:

(1) Whether the beds will be part of a continuing care retirement community;

(2) Whether the beds will serve an underserved population, such as low-income individuals, individuals with disabilities, or individuals who are members of racial or ethnic minority groups;

(3) Whether the project in which the beds will be included will provide alternatives to institutional care, such as adult day-care, home health care, respite or hospice care, mobile meals, residential care, independent living, or congregate living services;

(4) Whether the ~~health~~ long-term care facility's owner or operator will participate in medicaid waiver programs for alternatives to institutional care;

(5) Whether the project in which the beds will be included will reduce alternatives to institutional care by converting residential care beds or other alternative care beds to long-term care beds;

(6) Whether the facility in which the beds will be placed has positive resident and family satisfaction surveys;

(7) Whether the facility in which the beds will be placed has fewer than fifty long-term care beds;

(8) Whether the ~~health~~ long-term care facility in which the beds will be placed is located within the service area of a hospital and is designed to accept patients for rehabilitation after an in-patient hospital stay;

(9) Whether the ~~health~~ long-term care facility in which the beds will be placed is or proposes to become a nurse aide training and testing site;

(10) The rating, under the centers for medicare and medicaid services' five star nursing home quality rating system, of the ~~health~~ long-term care facility in which the beds will be placed.

~~(G)(1) When a certificate of need application is approved during the initial phase of a four-year review period, on completion of the project under which the beds are relocated, that number of beds shall cease to be operated in the health care facility from which they were relocated and, if the licensure or certification of those beds cannot be or is not transferred to the facility to which the beds are relocated, the licensure or certification shall be surrendered.~~

(2) In (H) A person who has submitted an application under this section that is not subject to comparative review may revise the site of the proposed

project pursuant to section 3702.522 of the Revised Code.

(I) When a certificate of need application is approved during the initial phase of a four-year review period, in addition to the actions required by division (G)(1)(D) of this section 3702.52 of the Revised Code, the health long-term care facility from which the beds were relocated shall reduce the number of beds operated in the facility by a number of beds equal to at least ten per cent of the number of beds relocated and shall surrender the licensure or certification of these beds. If these beds are in a home licensed under Chapter 3721. of the Revised Code, the long-term care facility shall have the beds removed from the license. If the beds are in a facility that is certified as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," the facility shall surrender the certification of these beds. If the beds are registered as skilled nursing beds or long-term care beds under section 3701.07 of the Revised Code, the long-term care facility shall surrender the registration for these beds. This reduction shall be made not later than the completion date of the project for which the beds were relocated.

~~(H)~~(J)(1) Once approval of certificate of need applications in the first phase of a four-year review period is complete, the director shall make a new determination of the bed need for each county by reducing the county's bed need by the number of beds approved for relocation to the county. The new bed-need determination shall be made not later than the first day of April of the third year of the review period.

(2) The director may publish on the department's web site the remaining bed need for counties that will be considered for redistribution of beds that, in accordance with division ~~(G)(2)~~(I) of this section, have ceased or will cease to be operated. The director shall base the determination of whether to include a county on all of the following:

(a) The statewide number of beds that, in accordance with division ~~(G)(2)~~(I) of this section, have ceased or will cease to be operated;

(b) The county's remaining bed need;

(c) The county's bed occupancy rate.

~~(H)~~(K) If the director publishes the remaining bed need for a county under division ~~(H)~~(J)(2) of this section, the director may, beginning on the first day of the second phase of the review period, accept certificate of need applications for redistribution to ~~health~~ long-term care facilities in that county of beds that have ceased or will cease operation in accordance with division ~~(G)(2)~~(I) of this section. The total number of beds approved for redistribution in the second phase of a review period shall not exceed the number that have ceased or will cease operation in accordance with division

~~(G)(2)(I)~~ of this section. Beds that are not approved for redistribution during the second phase of a review period shall not be available for redistribution at any future time.

Sec. 3702.594. (A) The director of health shall accept, for review under section 3702.52 of the Revised Code, certificate of need applications for an increase in beds in an existing nursing home if all of the following conditions are met:

(1) The proposed increase is attributable solely to a relocation of licensed nursing home beds from an existing nursing home to another existing nursing home located in a county that is contiguous to the county from which the beds are to be relocated;

(2) Not more than a total of thirty nursing home beds are proposed for relocation to the same existing nursing home regardless of the number of applications filed. Once the cumulative total of beds relocated under this section to a nursing home reaches thirty, no further applications under this section will be accepted until the period of monitoring specified in division (E) of section 3702.52 of the Revised Code of the most recent reviewable activity implemented under this section has expired;

(3) After the proposed relocation, there will be existing nursing home beds remaining in the county from which the beds are relocated;

(4) The beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code.

(B) The director shall accept applications described in division (A) of this section at any time.

Sec. 3702.60. (A) Any affected person may appeal a reviewability ruling ~~issued on or after April 20, 1995,~~ to the director of health in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. An affected person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(B) The certificate of need applicant or another affected person may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director ~~on or after April 20, 1995,~~ to grant or deny a certificate of need application ~~for which an adjudication hearing was not conducted under section 3702.52 of the Revised Code,~~ and the director shall provide an adjudication hearing in accordance with that chapter. The certificate of need applicant or other affected person that appeals the director's decision to grant or deny a certificate of need application must prove by a preponderance of the evidence that the director's decision is not in accordance with sections 3702.52 to 3702.62 of the Revised Code or rules

adopted under those sections. The certificate of need applicant or an affected person that was a party to and participated in an adjudication hearing conducted under this division ~~or section 3702.52 of the Revised Code~~ may appeal to the tenth district court of appeals the decision issued by the director following the adjudication hearing. ~~No person may appeal to the director or a court the director's granting of a certificate of need prior to June 30, 1995, under the version of section 3702.52 of the Revised Code in effect immediately prior to that date due to failure to submit timely written objections, no person may appeal to the director or a court the director's granting of a certificate of need under division (C)(1) of section 3702.52 of the Revised Code.~~

(C) The certificate of need holder may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director under section 3702.52 or ~~3702.526~~ 3702.525 of the Revised Code ~~on or after April 20, 1995,~~ to withdraw a certificate of need, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(D) Any person determined by the director to have violated section 3702.53 of the Revised Code may appeal that determination, or the penalties imposed under section 3702.54 or 3702.541 of the Revised Code, to the director in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. The person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals.

(E) Each person appealing under this section to the director shall file with the director, not later than thirty days after the decision, ruling, or determination of the director was mailed, a notice of appeal designating the decision, ruling, or determination appealed from.

(F) Each person appealing under this section to the tenth district court of appeals shall file with the court, not later than thirty days after the date the director's adjudication order was mailed, a notice of appeal designating the order appealed from. The appellant also shall file notice with the director not later than thirty days after the date the order was mailed.

(1) Not later than thirty days after receipt of the notice of appeal, the director shall prepare and certify to the court the complete record of the proceedings out of which the appeal arises. The expense of preparing and transcribing the record shall be taxed as part of the costs of the appeal. In the event that the record or a part thereof is not certified within the time prescribed by this division, the appellant may apply to the court for an order

that the record be certified.

(2) In hearing the appeal, the court shall consider only the evidence contained in the record certified to it by the director. The court may remand the matter to the director for the admission of additional evidence on a finding that the additional evidence is material, newly discovered, and could not with reasonable diligence have been ascertained before the hearing before the director. Except as otherwise provided by statute, the court shall give the hearing on the appeal preference over all other civil matters, irrespective of the position of the proceedings on the calendar of the court.

(3) The court shall affirm the director's order if it finds, upon consideration of the entire record and any additional evidence admitted under division (F)(2) of this section, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it shall reverse, vacate, or modify the order.

(4) If the court determines that the director committed material procedural error, the court shall remand the matter to the director for further consideration or action.

(G) The court may award reasonable attorney's fees against the appellant if it determines that the appeal was frivolous. Sections 119.092, 119.093, and 2335.39 of the Revised Code do not apply to adjudication hearings under this section or section 3702.52 of the Revised Code and judicial appeals under this section.

(H) No person may intervene in an appeal brought under this section.

Sec. 3702.62. ~~(A) Any action pursuant to section 140.03, 140.04, 140.05, 307.091, 313.21, 339.01, 339.021, 339.03, 339.06, 339.08, 339.09, 339.12, 339.14, 513.05, 513.07, 513.08, 513.081, 513.12, 513.15, 513.17, 513.171, 749.02, 749.03, 749.14, 749.16, 749.20, 749.25, 749.28, 749.35, 1751.06, or 3707.29 of the Revised Code shall be taken in accordance with sections 3702.51 to 3702.61 of the Revised Code.~~

~~(B) A nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that is required to apply for licensure as a residential facility under section 5123.19 of the Revised Code is not, with respect to the portion of the home certified as an intermediate care facility for the mentally retarded, subject to sections Sections 3702.51 to 3702.61 of the Revised Code do not apply to any part of long-term care facility's campus that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 343 (1965), 42 U.S.C. 1396 et seq., as amended.~~

Sec. 3703.01. (A) Except as otherwise provided in this section, the

division of ~~labor~~ industrial compliance in the department of commerce shall do all of the following:

(1) Inspect all nonresidential buildings within the meaning of section 3781.06 of the Revised Code;

(2) Condemn all unsanitary or defective plumbing that is found in connection with those places;

(3) Order changes in plumbing necessary to insure the safety of the public health.

(B)(1)(a) The division of ~~labor~~ industrial compliance, boards of health of city and general health districts, and county building departments shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any municipal corporation that is certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority for plumbing in those types of buildings.

(b) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district that employs one or more plumbing inspectors certified pursuant to division (D) of this section to enforce Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters relating to plumbing in those types of buildings.

(c) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district where the county building department is authorized to inspect those types of buildings pursuant to a contract described in division (C)(1) of this section.

(d) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district where the board of health has entered into a contract with the board of health of another district to conduct inspections pursuant to division (C)(2) of this section.

(2) No county building department shall inspect plumbing or collect fees for inspecting plumbing in any type of building in a health district unless the department is authorized to inspect that type of building pursuant to a contract described in division (C)(1) of this section.

(3) No municipal corporation shall inspect plumbing or collect fees for inspecting plumbing in types of buildings for which it is not certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority.

(4) No board of health of a health district shall inspect plumbing or collect fees for inspecting plumbing in types of buildings for which it does not have a plumbing inspector certified pursuant to division (D) of this

section.

(C)(1) The board of health of a health district may enter into a contract with a board of county commissioners to authorize the county building department to inspect plumbing in buildings within the health district. The contract may designate that the department inspect either residential or nonresidential buildings, as those terms are defined in section 3781.06 of the Revised Code, or both types of buildings, so long as the department employs or contracts with a plumbing inspector certified pursuant to division (D) of this section to inspect the types of buildings the contract designates. The board of health may enter into a contract regardless of whether the health district employs any certified plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code.

(2) The board of health of a health district, regardless of whether it employs any certified plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code, may enter into a contract with the board of health of another health district to authorize that board to inspect plumbing in buildings within the contracting board's district. The contract may designate the inspection of either residential or nonresidential buildings as defined in section 3781.06 of the Revised Code, or both types of buildings, so long as the board that performs the inspections employs a plumbing inspector certified pursuant to division (D) of this section to inspect the types of buildings the contract designates.

(D) The superintendent of ~~labor~~ industrial compliance shall adopt rules prescribing minimum qualifications based on education, training, experience, or demonstrated ability, that the superintendent shall use in certifying or recertifying plumbing inspectors to do plumbing inspections for health districts and county building departments that are authorized to perform inspections pursuant to a contract under division (C)(1) of this section, and for continuing education of plumbing inspectors. Those minimum qualifications shall be related to the types of buildings for which a person seeks certification.

(E) The superintendent may enter into reciprocal registration, licensure, or certification agreements with other states and other agencies of this state relative to plumbing inspectors if both of the following apply:

(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (D) of this section for certifying plumbing inspectors.

(2) The other state or agency extends similar reciprocity to persons

certified under this chapter.

(F) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to comply with division (F)(1) of this section;

(3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes;

(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing.

(G) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters.

(H) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health.

Sec. 3703.03. In the administration of sections 3703.01 to 3703.08 of the Revised Code, the division of ~~labor~~ industrial compliance shall enforce rules governing plumbing adopted by the board of building standards under authority of sections 3781.10 and 3781.11 of the Revised Code, and register those persons engaged in or at the plumbing business.

Plans and specifications for all plumbing to be installed in or for buildings coming within such sections shall be submitted to and approved by the division before the contract for plumbing is let.

Sec. 3703.04. The superintendent of ~~labor~~ industrial compliance shall appoint such number of plumbing inspectors as is required. The inspectors shall be practical plumbers with at least seven years' experience, and skilled and well-trained in matters pertaining to sanitary regulations concerning plumbing work.

Sec. 3703.05. Plumbing inspectors employed by the division of ~~labor~~ industrial compliance assigned to the enforcement of sections 3703.01 to 3703.08 of the Revised Code may, between sunrise and sunset, enter any building where there is good and sufficient reason to believe that the sanitary condition of the premises endangers the public health, for the purpose of making an inspection to ascertain the condition of the premises.

Sec. 3703.06. When any building is found to be in a sanitary condition or when changes which are ordered, under authority of this chapter, in the plumbing, drainage, or ventilation have been made, and after a thorough

inspection and approval by the superintendent of ~~labor~~ industrial compliance, the superintendent shall issue a certificate, which shall be posted in a conspicuous place for the benefit of the public at large. Upon notification by the superintendent, the certificate shall be revoked for any violation of those sections.

Sec. 3703.07. No plumbing work shall be done in any building or place coming within the jurisdiction of the division of ~~labor~~ industrial compliance, except in cases of repairs or leaks in existing plumbing, until a permit has been issued by the division.

Before granting such permit, an application shall be made by the owner of the property or by the person, firm, or corporation which is to do the work. The application shall be made on a form prepared by the division for the purpose, and each application shall be accompanied by a fee of twenty-seven dollars, and an additional fee of seven dollars for each trap, vented fixture, appliance, or device. Each application also shall be accompanied by a plan approval fee of eighteen dollars for work containing one through twenty fixtures; thirty-six dollars for work containing twenty-one through forty fixtures; and fifty-four dollars for work containing forty-one or more fixtures.

Whenever a reinspection is made necessary by the failure of the applicant or plumbing contractor to have the work ready for inspection when so reported, or by reason of faulty or improper installation, the person shall pay a fee of forty-five dollars for each reinspection.

All fees collected pursuant to this section shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created in section 121.084 of the Revised Code.

The superintendent of ~~labor~~ industrial compliance, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the fees required by this section and may establish fees to pay the costs of the division to fulfill its duties established by this chapter, including, but not limited to, fees for administering a program for continuing education for, and certifying and recertifying plumbing inspectors. The fees shall bear some reasonable relationship to the cost of administering and enforcing the provisions of this chapter.

Sec. 3703.08. Any owner, agent, or manager of a building in which an inspection is made by the division of ~~labor~~ industrial compliance, a board of health of a health district, or a certified department of building inspection of a municipal corporation or a county shall have the entire system of drainage and ventilation repaired, as the division, board of health, or department of building inspection directs by its order. After due notice to repair that work

is given, the owner, agent, or manager shall notify the public authority that issued the order when the work is ready for its inspection. No person shall fail to have the work ready for inspection at the time specified in the notice.

Sec. 3703.10. All prosecutions and proceedings by the division of ~~labor~~ industrial compliance for the violation of sections 3703.01 to 3703.08 of the Revised Code, or for the violation of any of the orders or rules of the division under those sections, shall be instituted by the superintendent of ~~labor~~ industrial compliance. All fines or judgments collected by the division shall be paid into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created by section 121.084 of the Revised Code.

The superintendent, the board of health of a general or city health district, or any person charged with enforcing the rules of the division adopted under sections 3703.01 to 3703.08 of the Revised Code may petition the court of common pleas for injunctive or other appropriate relief requiring any person violating a rule adopted or order issued by the superintendent under those sections to comply with the rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant injunctive or other appropriate relief.

The superintendent may do all of the following:

- (A) Deny an applicant certification as a plumbing inspector;
- (B) Suspend or revoke the certification of a plumbing inspector;
- (C) Examine any certified plumbing inspector under oath;
- (D) Examine the records and books of any certified plumbing inspector if the superintendent finds the material to be examined relevant to a determination described in division (A), (B), or (C) of this section.

Sec. 3703.21. (A) Within ninety days after September 16, 2004, the superintendent of ~~labor~~ industrial compliance shall appoint a backflow advisory board consisting of not more than ten members, who shall serve at the pleasure of the superintendent. The superintendent shall appoint a representative from the plumbing section of the division of ~~labor~~ industrial compliance, three representatives recommended by the plumbing administrator of the division of ~~labor~~ industrial compliance, a representative of the drinking water program of the Ohio environmental protection agency, three representatives recommended by the director of environmental protection, and not more than two members who are not employed by the plumbing or water industry.

The board shall advise the superintendent on matters pertaining to the training and certification of backflow technicians.

(B) The superintendent shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the certification of backflow

technicians. The rules shall establish all of the following requirements, specifications, and procedures:

(1) Requirements and procedures for the initial certification of backflow technicians, including eligibility criteria and application requirements and fees;

(2) Specifications concerning and procedures for taking examinations required for certification as a backflow technician, including eligibility criteria to take the examination and application requirements and fees for taking the examination;

(3) Specifications concerning and procedures for renewing a certification as a backflow technician, including eligibility criteria, application requirements, and fees for renewal;

(4) Specifications concerning and procedures for both of the following:

(a) Approval of training agencies authorized to teach required courses to candidates for certification as backflow technicians or continuing education courses to certified backflow technicians;

(b) Renewal of the approval described in division (B)(4)(a) of this section.

(5) Education requirements that candidates for initial certification as backflow technicians must satisfy and continuing education requirements that certified backflow technicians must satisfy;

(6) Grounds and procedures for denying, suspending, or revoking certification, or denying the renewal of certification, as a backflow technician;

(7) Procedures for issuing administrative orders for the remedy of any violation of this section or any rule adopted pursuant to division (B) of this section, including, but not limited to, procedures for assessing a civil penalty authorized under division (D) of this section;

(8) Any provision the superintendent determines is necessary to administer or enforce this section.

(C) No individual shall engage in the installation, testing, or repair of any isolation backflow prevention device unless that individual possesses a valid certification as a backflow technician. This division does not apply with respect to the installation, testing, or repair of any containment backflow prevention device.

(D) Whoever violates division (C) of this section or any rule adopted pursuant to division (B) of this section shall pay a civil penalty of not more than five thousand dollars for each day that the violation continues. The superintendent may, by order, assess a civil penalty under this division, or may request the attorney general to bring a civil action to impose the civil

penalty in the court of common pleas of the county in which the violation occurred or where the violator resides.

(E) Any action taken under a rule adopted pursuant to division (B)(6) of this section is subject to the appeal process of Chapter 119. of the Revised Code. An administrative order issued pursuant to rules adopted under division (B)(7) of this section and an appeal to that type of administrative order shall be executed in accordance with Chapter 119. of the Revised Code.

(F) As used in this section:

(1) "Isolation backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is regulated by the building code adopted pursuant to section 3781.10 of the Revised Code and rules adopted pursuant to this section.

(2) "Containment backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is installed by the supplier of, or as a requirement of, any public water system as defined in division (A) of section 6109.01 of the Revised Code.

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.08 of the Revised Code, or any rule the division of ~~labor~~ industrial compliance is required to enforce under such sections, shall be fined not less than ten nor more than one hundred dollars or imprisoned for not less than ten nor more than ninety days, or both. No person shall be imprisoned under this section for the first offense, and the prosecution always shall be as for a first offense unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense.

Sec. 3704.035. (A) There is hereby created in the state treasury the Title V clean air fund. Except as otherwise provided in division (K) of section 3745.11 of the Revised Code, all moneys collected under ~~divisions (C), (D), (F), (G), (H), (I), and (J)~~ division (B) of that section ~~and under section 3745.111 of the Revised Code~~, and any gifts, grants, or contributions received by the director of environmental protection for the purposes of the fund, shall be credited to the fund. ~~The director shall expend moneys from the fund exclusively to pay the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air pollution and rules adopted and terms and conditions of permits, variances, and orders issued under those laws, except that the director shall not expend moneys credited to the fund for the administration and enforcement of motor vehicle inspection and maintenance programs and requirements under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 of the Revised Code.~~

~~Specifically, the~~ The director shall expend all moneys credited to the fund ~~from fees assessed under section 3745.11 of the Revised Code pursuant to the Title V permit program established under section 3704.036 of the Revised Code, and from any gifts, grants, or contributions received for the purposes of that program,~~ solely to administer and enforce ~~that the Title V~~ program pursuant to the federal Clean Air Act, this chapter, and rules adopted under it, except as costs relating to enforcement are limited by the federal Clean Air Act. The director shall establish separate and distinct accounting for all such moneys.

(B) There is hereby created in the state treasury the non-Title V clean air fund. All money collected under divisions (D), (F), (G), (H), (I), and (J) of section 3745.11 of the Revised Code shall be credited to the fund. In addition, any gifts, grants, or contributions received by the director for the purposes of the fund shall be credited to the fund.

The director shall expend money in the fund exclusively to pay the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air pollution, rules adopted under those laws, and terms and conditions of permits, variances, and orders issued under those laws. However, the director shall not expend money credited to the fund for the administration and enforcement of the Title V permit program established under this chapter and rules adopted under it or motor vehicle inspection and maintenance programs established under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 of the Revised Code.

(C) The director shall report biennially to the general assembly the amounts of fees and other moneys credited to the fund funds under this section and the amounts expended from it them for each of the various air pollution control programs.

Sec. 3705.24. (A)(1) The ~~public director of health council~~ shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

- (a) Except as provided in division (A)(4) of this section:
 - (i) A certified copy of a vital record or a certification of birth;
 - (ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;
 - (iii) A copy of a record provided pursuant to a request.
- (b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;
(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;

(e) Any other documents or services for which the ~~public health council~~ director considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than twelve dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections 3109.14 and 3705.242 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics, the board of health of a city or general health district, or a local registrar of vital statistics who is not a salaried employee of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in this state. A board of health or a local registrar shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health

district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount

prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

(I)(1) Four dollars of each fee collected by the board of health of a city or general health district for a certified copy of a vital record or a certification of birth shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems. Of each four dollars collected, one dollar shall be used by the director of health to pay subsidies to boards of health. The subsidies shall be distributed in accordance with the same formula established under section 3701.342 of the Revised Code for the distribution of state health district subsidy funds to boards of health and local health departments.

(2) Four dollars of each fee collected by a local registrar of vital statistics who is not a salaried employee of a city or general health district, for a certified copy of a vital record or certification of birth, shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems.

Sec. 3705.242. (A)(1) The director of health, a person authorized by the director, a local commissioner of health, or a local registrar of vital statistics shall charge and collect a fee of one dollar and fifty cents for each certified copy of a birth record, each certification of birth, and each copy of a death record. The fee is in addition to the fee imposed by section 3705.24 or any other section of the Revised Code. A local commissioner of health or local registrar of vital statistics may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the ~~treasurer of state~~ department of health. The

The additional fees collected by the director of health or a person authorized by the director and the additional fees collected; but not retained;

under division (A)(1) of this section by a local commissioner of health or a local registrar of vital statistics shall be forwarded to the treasurer of state department of health not later than thirty days following the end of each quarter. Not later than two days after the fees are forwarded to the department each quarter, the department shall pay the collected fees to the treasurer of state in accordance with rules adopted by the treasurer of state under section 113.08 of the Revised Code.

(2) On the filing of a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, a court of common pleas shall charge and collect a fee of five dollars and fifty cents. The fee is in addition to any other court costs or fees. The county clerk of courts may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the treasurer of state. The additional fees collected, but not retained, under division (A)(2) of this section shall be forwarded to the treasurer of state not later than twenty days following the end of each month.

(B) The treasurer of state shall deposit the fees paid or forwarded under this section in the state treasury to the credit of the family violence prevention fund, which is hereby created. A person or government entity that fails to pay or forward the fees in a timely manner, as determined by the treasurer of state, shall ~~forward send~~ to the treasurer of state, in addition to the fees, a penalty equal to ten per cent of the fees.

The treasurer of state shall invest the moneys in the fund. All earnings resulting from investment of the fund shall be credited to the fund, except that actual administration costs incurred by the treasurer of state in administering the fund may be deducted from the earnings resulting from investments. The amount that may be deducted shall not exceed three per cent of the total amount of fees credited to the fund in each fiscal year. The balance of the investment earnings shall be credited to the fund.

(C) The director of public safety shall use money credited to the fund to provide grants to family violence shelters in Ohio and to operate the division of criminal justice services.

Sec. 3705.30. (A) As used in this section:

(1) "Freestanding birthing center" has the same meaning as in section ~~3702.54~~ 3702.141 of the Revised Code.

(2) "Hospital" means a hospital classified under section 3701.07 of the Revised Code as a general hospital or children's hospital.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine

and surgery.

(B) The director of health shall establish and, if funds for this purpose are available, implement a statewide birth defects information system for the collection of information concerning congenital anomalies, stillbirths, and abnormal conditions of newborns.

(C) If the system is implemented under division (B) of this section, all of the following apply:

(1) The director may require each physician, hospital, and freestanding birthing center to report to the system information concerning all patients under five years of age with a primary diagnosis of a congenital anomaly or abnormal condition. The director shall not require a hospital, freestanding birthing center, or physician to report to the system any information that is reported to the director or department of health under another provision of the Revised Code or Administrative Code.

(2) On request, each physician, hospital, and freestanding birthing center shall give the director or authorized employees of the department of health access to the medical records of any patient described in division (C)(1) of this section. The department shall pay the costs of copying any medical records pursuant to this division.

(3) The director may review vital statistics records and shall consider expanding the list of congenital anomalies and abnormal conditions of newborns reported on birth certificates pursuant to section 3705.08 of the Revised Code.

(D) A physician, hospital, or freestanding birthing center that provides information to the system under division (C) of this section shall not be subject to criminal or civil liability for providing the information.

Sec. 3706.19. (A) There is hereby created in the Ohio air quality development authority the office of ~~ombudsman~~ ombudsperson for the small business stationary source technical and environmental compliance assistance program created under section 3704.18 of the Revised Code. The office shall exercise its duties independently of any other state agency.

(B) ~~Not later than one year after the effective date of this section, the~~ The governor, with the advice and consent of the senate, shall appoint the ~~initial ombudsman~~ ombudsperson. The ~~ombudsman~~ ombudsperson shall serve for a term of four years. The person who is appointed to serve as the ~~ombudsman~~ ombudsperson shall be experienced in management and in working with private enterprise and government entities, knowledgeable in the areas of arbitration and negotiation, experienced in interpreting statutory and regulatory law, and knowledgeable in investigation techniques and procedures, recordkeeping, and report writing. The ~~ombudsman~~

ombudsperson may be the highest ranking managerial employee of the authority.

(C) The ~~ombudsman~~ ombudsperson shall do all of the following:

- (1) Ensure that the goals of the program are being met;
- (2) Conduct independent evaluations of all aspects of the program;
- (3) Review the development and implementation of air pollution control requirements that have an impact on small businesses in the state and provide comments and recommendations, as appropriate, to the environmental protection agency and the United States environmental protection agency;
- (4) Facilitate and promote the participation of small businesses in the development of rules to be adopted under Chapter 3704. of the Revised Code that affect small businesses;
- (5) Aid in the dissemination of information, including air pollution requirements and control technologies, to small businesses and other interested persons;
- (6) Provide free, confidential assistance on individual source problems and grievances presented by small businesses;
- (7) Aid in investigating and resolving complaints against, and disputes involving, the agency from small businesses;
- (8) Refer small businesses to the appropriate specialist in the program from whom they may obtain information and assistance on affordable alternative technologies, process changes, and products and operational methods to help reduce air pollution and accidental releases;
- (9) Work with trade associations and small businesses to effect voluntary compliance with the federal Clean Air Act, Chapter 3704. of the Revised Code, and rules adopted under it;
- (10) Work with other states to establish a network for sharing information on small businesses and their efforts to comply with the federal Clean Air Act and state and local air pollution control laws;
- (11) Seek public and private funding sources that can financially assist small businesses that are in need of moneys to comply with air pollution control laws;
- (12) Conduct studies to evaluate the impacts of the federal Clean Air Act on the state's economy, local economies, and small businesses.

(D) There is hereby created in the state treasury the small business ~~ombudsman~~ ombudsperson fund, which shall consist of moneys transferred to it from the Title V clean air fund created in section 3704.035 of the Revised Code. Moneys in the fund shall be used exclusively for the purposes of this section.

The director of environmental protection and the executive director of the authority annually shall determine the amount of moneys necessary for the operation of the office of the ~~ombudsman~~ ombudsperson. Thereafter, the director shall request the director of budget and management to, and that director shall, transfer that amount of moneys from the Title V clean air fund to the small business ~~ombudsman~~ ombudsperson fund.

(E) There is hereby created in the state treasury the small business assistance fund, which shall consist of moneys credited to it under division (K) of section 3745.11 of the Revised Code. The ~~ombudsman~~ ombudsperson shall use moneys in the fund solely to provide financial assistance to small businesses that have one hundred or fewer employees and that are having financial difficulty complying with the "Clean Air Act Amendments of 1990," 104 Stat. 2399, 42 U.S.C.A. 7401, and regulations adopted under it.

In accordance with Chapter 119. of the Revised Code, the ~~ombudsman~~ ombudsperson shall adopt rules establishing procedures and requirements governing grants awarded under this division.

Sec. 3709.03. (A) There is hereby created in each general health district a district advisory council. A council shall consist of the president of the board of county commissioners, the chief executive of each municipal corporation not constituting a city health district, and the president of the board of township trustees of each township. The board of county commissioners, the legislative body of a municipal corporation, and the board of township trustees of a township may select an alternate from among themselves to serve if the president, the chief executive, or the president of the board of township trustees is unable to attend any meeting of the district advisory council. When attending a meeting on behalf of a council member, the alternate may vote on any matter on which the member is authorized to vote.

The council shall organize by selecting a chair and secretary from among its members. The council shall adopt bylaws governing its meetings, the transaction of business, and voting procedures.

The council shall meet annually in March at a place determined by the chair and the health commissioner for the purpose of electing the chair and the secretary, making necessary appointments to the board of health, receiving and considering the annual or special reports from the board of health, and making recommendations to the board of health or to the department of health in regard to matters for the betterment of health and sanitation within the district or for needed legislation. The secretary of the council shall notify the district health commissioner and the director of health of the proceedings of such meeting.

Special meetings of the council shall be held on the order of any of the following:

- (1) The director of health;
 - (2) The board of health;
 - (3) The lesser of five or a majority of district advisory council members.
- The district health commissioner shall attend all meetings of the council.

(B) The district advisory council shall appoint four members of the board of health, and the remaining member shall be appointed by the health district licensing council established under section 3709.41 of the Revised Code. At least one member of the board of health shall be a physician. Appointments shall be made with due regard to equal representation of all parts of the district.

(C) If at an annual or special meeting at which a member of the board of health is to be appointed fewer than a majority of the members of the district council are present, the council, by the majority vote of council members present, may organize an executive committee to make the appointment. An executive committee shall consist of five council members, including the president of the board of county commissioners, the council chair, the council secretary, and two additional council members selected by majority affirmative vote of the council members present at the meeting. The additional members selected shall include one representative of municipal corporations in the district that are not city health districts and one representative of townships in the district. If an individual is eligible for more than one position on the executive committee due to holding a particular office, the individual shall fill one position on the committee and the other position shall be filled by a member selected by a majority affirmative vote of the council members present at the meeting. A council member's alternate for annual meetings may serve as the member's alternate at meetings of the executive committee.

Not later than thirty days after an executive committee is organized, the committee shall meet and the council chair shall present to the committee the matter of appointing a member of the board of health. The committee shall appoint the board member by majority affirmative vote. In the case of a combined health district, the executive committee shall appoint only members of the board of health that are to be appointed by the district advisory council, unless the contract for administration of health affairs in the combined district provides otherwise. If a majority affirmative vote is not reached within thirty days after the executive committee is organized, the director of health shall appoint the member of the board of health under the authority conferred by section 3709.03 of the Revised Code.

If the council fails to meet or appoint a member of the board of health as required by this section or section 3709.02 of the Revised Code, the director of health, ~~with the consent of the public health council,~~ may appoint the member.

Sec. 3709.04. If in any general health district the district advisory council fails to meet or to select a board of health, the director of health may, ~~with the consent of the public health council,~~ appoint a board of health for such district which shall have and exercise all powers conferred on a board of health of a general health district.

Sec. 3709.06. If any city fails to establish a board of health under section 3709.05 of the Revised Code, the director of health, ~~with the approval of the public health council,~~ may appoint a health commissioner for such city, and fix ~~his~~ the commissioner's salary and term of office. Such commissioner shall have the same powers and perform the duties granted to or imposed upon a board of health of a city health district, except that rules, regulations, or orders of a general nature, made by ~~him~~ the commissioner and required to be published, shall be approved by the director. The salary of such commissioner and all necessary expenses incurred by ~~him~~ the commissioner in performing the duties of the board shall be paid by and be a valid claim against such city.

Sec. 3709.085. (A) The board of health of a city or general health district may enter into a contract with any political subdivision or other governmental agency to obtain or provide all or part of any services, including, but not limited to, enforcement services, for the purposes of Chapter 3704. of the Revised Code, the rules adopted and orders made pursuant thereto, or any other ordinances or rules for the prevention, control, and abatement of air pollution.

(B)(1) As used in division (B)(2) of this section:

(a) "Semipublic disposal system" means a disposal system that treats the sanitary sewage discharged from publicly or privately owned buildings or places of assemblage, entertainment, recreation, education, correction, hospitalization, housing, or employment, but does not include a disposal system that treats sewage in amounts of more than twenty-five thousand gallons per day; a disposal system for the treatment of sewage that is exempt from the requirements of section 6111.04 of the Revised Code pursuant to division (F)(7) of that section; or a disposal system for the treatment of industrial waste.

(b) Terms defined in section 6111.01 of the Revised Code have the same meanings as in that section.

(2) The board of health of a city or general health district may enter into

a contract with the environmental protection agency to conduct on behalf of the agency inspection or enforcement services, for the purposes of Chapter 6111. of the Revised Code and rules adopted thereunder, for the disposal or treatment of sewage from semipublic disposal systems. The board of health of a city or general health district may charge a fee established pursuant to section 3709.09 of the Revised Code to be paid by the owner or operator of a semipublic disposal system for inspections conducted by the board pursuant to a contract entered into under division (B)(2) of this section, except that the board shall not charge a fee for those inspections conducted at any recreational vehicle park, recreation camp, or combined park-camp that is licensed under section 3729.05 of the Revised Code or at any manufactured home park that is licensed under section ~~3733.03~~ 4781.27 of the Revised Code.

Sec. 3709.09. (A) The board of health of a city or general health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board.

The fee for issuance of a certified copy of a vital record or a certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The ~~public~~ director of health ~~council~~ shall adopt rules under section 111.15 of the Revised Code that establish fee categories and a uniform methodology for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, and 3749.04 of the Revised Code. In adopting the rules, the ~~public health council~~ director shall consider recommendations it receives from advisory boards established either by statute or the director ~~of health~~ for entities subject to the fees.

(C) Except when a board of health establishes a fee by adopting a rule as an emergency measure, the board of health shall hold a public hearing regarding each proposed fee for a service provided by the board for a

purpose specified in section 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, or 3749.04 of the Revised Code. If a public hearing is held, at least twenty days prior to the public hearing the board shall give written notice of the hearing to each entity affected by the proposed fee. The notice shall be mailed to the last known address of each entity and shall specify the date, time, and place of the hearing and the amount of the proposed fee.

(D) If payment of a fee established under this section is not received by the day on which payment is due, the board of health shall assess a penalty. The amount of the penalty shall be equal to twenty-five per cent of the applicable fee.

(E) All rules adopted by a board of health under this section shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such rules shall be by publication in one newspaper of general circulation within the health district. Publication shall be made once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and such rules shall take effect and be in force ten days from the date of the first publication.

Sec. 3709.092. (A) A board of health of a city or general health district shall transmit to the director of health all fees or additional amounts that the ~~public health council~~ director requires to be collected under sections 3701.344, 3718.06, 3729.07, and 3749.04 of the Revised Code. The fees and amounts shall be transmitted according to the following schedule:

(1) For fees and amounts received by the board on or after the first day of January but not later than the thirty-first day of March, transmit the fees and amounts not later than the fifteenth day of May;

(2) For fees and amounts received by the board on or after the first day of April but not later than the thirtieth day of June, transmit the fees and amounts not later than the fifteenth day of August;

(3) For fees and amounts received by the board on or after the first day of July but not later than the thirtieth day of September, transmit the fees and amounts not later than the fifteenth day of November;

(4) For fees and amounts received by the board on or after the first day of October but not later than the thirty-first day of December, transmit the fees and amounts not later than the fifteenth day of February of the following year.

(B) The director shall deposit the fees and amounts received under this section into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. Each amount shall be used solely for the purpose for which it was collected.

Sec. 3709.32. The president of each board of health providing health services in one or more health districts and the chief executive officer of each health department providing health services in one or more health districts shall, on or before the first day of March of each year, certify the amounts expended during the preceding calendar year which qualify for state health district subsidy funds under section 3701.342 of the Revised Code and rules ~~of adopted by the public director of health council~~. The director of health shall certify the amount payable under the state health district subsidy funds distribution formula adopted by the ~~public director of health council~~ under section 3701.342 of the Revised Code to the director of budget and management for payment. Payment shall not be made unless:

(A) The board or department has provided such information concerning services and costs as is requested by the director of health;

(B) The certificate of the board of health or health department has been endorsed by the director of health;

(C) The board or department has complied with section 3701.342 of the Revised Code and ~~public health council~~ rules adopted by the director of health;

(D) The municipal corporations and townships composing the health district have provided adequate local funding for public health services. The ~~public director of health council~~ shall determine what constitutes adequate local funding, and may grant an exception to this requirement to a municipal corporation or township if unusually severe economic conditions prevent it from receiving adequate tax revenues to help support minimally acceptable public health services.

No state health district subsidy funds shall be granted to any board or department that decreases its appropriation for public health services in anticipation of using state funds to provide public health services normally supported by local revenues.

Sec. 3709.35. If the director of health ~~finds~~ charges that the health commissioner or a member of the board of health of a health district is guilty of misfeasance, malfeasance, or nonfeasance or has failed to perform any or all of the duties required by sections 3701.10, 3701.29, 3701.81, 3707.08, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the Revised Code, the director ~~shall prefer a charge against the commissioner or board member before the public health council~~ and shall notify the commissioner or board member as to the time and place at which such charges will be heard. If the ~~council~~ director, after hearing, finds the commissioner or board member guilty of the charge, it may remove such commissioner or member from office.

If the lesser of three or one-fifth of the members of a district advisory council have reason to believe a member of the board of health of a general health district is guilty of misfeasance, malfeasance, or nonfeasance or has failed to perform any or all of the duties required by sections 3701.10, 3701.29, 3701.81, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the Revised Code, the district advisory council members shall prefer a charge against the board member before the district advisory council and shall notify the board member as to the time and place at which such charges will be heard. If a majority of the council, after hearing, finds the board member guilty of the charge, it may remove the member from office.

When any member of the board of health of a general or city health district is removed from office, the district advisory council or the chief executive of the city, upon notice of such removal, shall within thirty days after receipt of such notice fill the vacancy in accordance with section 3709.03 or 3709.05 of the Revised Code.

Sec. 3710.01. As used in this chapter:

(A) "Asbestos" means the asbestiform varieties of chrysotile or serpentine, amosite or cummingtonitegrunerite, crocidolite or riebeckite, actinolite, tremolite, and anthophyllite.

(B) "Asbestos hazard abatement activity" means any activity involving the removal, renovation, enclosure, repair, or encapsulation of reasonably related friable asbestos-containing materials in an amount greater than fifty linear feet or fifty square feet. "Asbestos hazard abatement activity" also includes any such activity involving such asbestos-containing materials in an amount of fifty linear or fifty square feet or less if, when combined with any other reasonably related activity in terms of time and location of the activity, the total amount is in an amount greater than fifty linear or fifty square feet.

(C) "Asbestos hazard abatement contractor" means a business entity or public entity that engages in or intends to engage in asbestos hazard abatement activities and that employs or supervises one or more asbestos hazard abatement specialists for asbestos hazard abatement activities. "Asbestos hazard abatement contractor" does not mean an employee of an asbestos hazard abatement contractor, a general contractor who subcontracts to an asbestos hazard abatement contractor an asbestos hazard abatement activity, or any individual who engages in asbestos hazard abatement activity in his the individual's own home.

(D) "Asbestos hazard abatement project" means one or more asbestos hazard abatement activities that are conducted by one asbestos hazard abatement contractor and that are reasonably related to each other.

(E) "Asbestos hazard abatement specialist" means a person with responsibility for the oversight or supervision of asbestos hazard abatement activities, including asbestos hazard abatement project managers, hazard abatement project supervisors and foremen, and employees of school districts or other governmental or public entities who coordinate or directly supervise or oversee asbestos hazard abatement activities performed by school district, governmental, or other public employees in school district, governmental, or other public buildings.

(F) "Asbestos hazard evaluation specialist" means a person responsible for the identification, detection, and assessment of asbestos-containing materials, the determination of appropriate response actions, or the preparation of asbestos management plans for the purpose of protecting the public health from the hazards associated with exposure to asbestos, including the performance of air and bulk sampling. This category of specialists includes management planners, health professionals, industrial hygienists, private consultants, or other individuals involved in asbestos risk identification or assessment or regulatory activities.

(G) "Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern.

(H) "Public entity" means the state or any of its political subdivisions or any agency or instrumentality of either.

(I) "License" means a document issued by the department of health to a business entity or public entity affirming that the entity has met the requirements set forth in this chapter to engage in asbestos hazard abatement activities as an asbestos hazard abatement contractor.

(J) "Certificate" means:

(1) A document issued by the department to an individual affirming that the individual has successfully completed the training and other requirements set forth in this chapter to qualify as an asbestos hazard abatement specialist, an asbestos hazard evaluation specialist, an asbestos hazard abatement worker, an asbestos hazard abatement project designer, an asbestos hazard abatement air-monitoring technician, an approved asbestos hazard training provider, or other category of asbestos hazard specialist that the ~~public health council~~ director establishes by rule; or

(2) A document issued by a training institution in accordance with rules adopted by the ~~public health council~~ director affirming that an individual has successfully completed the instruction required in all categories as provided in sections 3710.07 and 3710.10 of the Revised Code.

(K) "Person" means any individual, business entity, governmental body, or other public or private entity.

(L) "Encapsulate" means to coat, bind, or resurface walls, ceilings, pipes, or other structures to prevent friable asbestos from becoming airborne.

(M) "Friable asbestos-containing material" means any material that contains more than one per cent asbestos by weight and that can be crumbled, pulverized, or reduced to powder, when dry, by hand pressure.

(N) "Enclosure" means the permanent confinement of friable asbestos-containing materials with an airtight barrier in an area not used as an air plenum.

(O) "Renovation" means the removal or stripping of friable asbestos-containing materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or load supporting member.

(P) "Asbestos hazard abatement worker" means the person responsible in a nonsupervisory capacity for the performance of an asbestos hazard abatement activity.

(Q) "Asbestos hazard abatement project designer" means the person responsible for the determination of the workscope, work sequence, or performance standards for an asbestos hazard abatement activity, including preparation of specifications, plans, and contract documents.

(R) "Director" means the director of health or ~~his~~ the director's authorized representative.

(S) "Clearance air sampling" means an air sampling performed after the completion of any asbestos hazard abatement activity and prior to the reoccupation of the contained work area by the public and conducted for the purpose of protecting the public from the health hazards associated with exposure to friable asbestos-containing material.

(T) "Asbestos hazard abatement air-monitoring technician" means the person who is responsible for environmental monitoring or work area clearance air sampling, including air monitoring performed to determine completion of response actions under the rules set forth in 40 C.F.R. 763 Subpart E, adopted by the United States environmental protection agency pursuant to the "Asbestos Hazard Emergency Response Act of 1986," Pub. L. 99-519, 100 Stat. 2970. "Asbestos hazard abatement air-monitoring technician" does not mean an industrial hygienist or industrial hygienist in training, certified by the American board of industrial hygiene.

Sec. 3710.02. (A) ~~Subject to~~ In accordance with Chapter 119. of the Revised Code, the ~~public~~ director of health ~~council~~ shall, as ~~the~~ the director determines necessary, adopt rules to carry out this chapter. The rules shall include all of the following:

(1) Criteria and procedures for the certification of asbestos hazard

abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement workers, asbestos hazard abatement project designers, and asbestos hazard abatement air-monitoring technicians by the director of health;

(2) Criteria and procedures for the director to examine the records of licensees, certificate holders, and asbestos hazard abatement training schools;

(3) Procedures and criteria in addition to those provided in this chapter for the approval of courses for asbestos hazard training;

(4) Fees for licenses, certifications, and course approvals in excess of the levels set in section 3710.05 of the Revised Code and fees for the certification of asbestos hazard abatement air-monitoring technicians;

(5) Levels of asbestos exposure or other circumstances constituting a public health emergency that authorize the director to issue an emergency order under division (B) of section 3710.13 of the Revised Code;

(6) Employee training standards, work practices that reduce the risk of contamination and recontamination of the environment, record-keeping requirements, action levels, project clearance levels, and other requirements that asbestos hazard abatement contractors, asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement project designers, asbestos hazard abatement air-monitoring technicians, asbestos hazard abatement workers, and other persons involved with asbestos hazard abatement activities must follow for the prevention of hazard to the public;

(7) Worker protection equipment and practices and other health and safety standards for employees and agents of public entities coming in contact with asbestos through asbestos hazard abatement activity;

(8) Standards of acceptable conduct for licensees and certificate holders engaged in asbestos hazard abatement or evaluation activities and acts and omissions that constitute grounds for the suspension or revocation of a license or certificate, or the denial of an application or renewal of a license or certificate in addition to those otherwise provided in this chapter;

(9) Training requirements for asbestos hazard abatement project designers and asbestos hazard abatement air-monitoring technicians;

(10)(a) Subject to the condition specified in division (A)(10)(b) of this section, a standard requiring that the amount of asbestos contained in the air in areas accessible to the public in buildings that are owned, operated, or leased by a public entity be not more than ten thousand asbestos fibers longer than five microns per cubic meter of air calculated as an eight-hour time-weighted average, which is measured during periods of normal

building occupancy, and a requirement that measurement of airborne asbestos be made by either or both of the following methods, provided that results derived by use of the method described in division (A)(10)(a)(i) of this section supersede results derived by use of the method described in division (A)(10)(a)(ii) of this section if both methods are used and the methods yield conflicting results concerning the presence of fibers in the tested air that may not be asbestos:

(i) Transmission electron microscopy in the manner described in the measurement protocol established by the United States environmental protection agency as set forth in 40 C.F.R. 763;

(ii) Optical phase contrast microscopy in the manner described in the measurement protocol established by the United States occupational safety and health administration as set forth in 29 C.F.R. 1910.

(b) The ~~public health council~~ director periodically shall review the standard required by division (A)(10)(a) of this section and determine whether and how it should be amended and how it shall be used in conjunction with visual and physical assessment of asbestos-containing materials located in buildings that are owned, operated, or leased by a public entity to determine appropriate and cost-effective response actions to such asbestos-containing materials and shall amend the standard if it determines that such action is necessary.

(11) Other rules that the ~~public health council~~ director determines necessary for the implementation of this chapter and to protect the public health from the hazards associated with exposure to asbestos.

(B) The director shall do all of the following:

(1) Administer and enforce this chapter and the rules ~~of the public health council~~ adopted pursuant thereto;

(2) Develop comprehensive programs and policies for the control and prevention of nonoccupational exposure of the public to friable asbestos-containing materials;

(3) Ensure that persons are trained and licensed or certified, where appropriate, in accordance with this chapter and the rules ~~of the public health council~~ adopted pursuant thereto;

(4) Examine those records of licensed asbestos hazard abatement contractors, certified asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement project designers, asbestos hazard abatement air-monitoring technicians, and asbestos hazard training courses in accordance with rules adopted by the ~~public health council~~ director as ~~he~~ the director determines necessary to determine compliance with this chapter and the rules ~~of the public health council~~ adopted pursuant

thereto;

(5) Prohibit and prevent improper asbestos hazard abatement procedures and require the modification or alteration of asbestos abatement procedures as they relate to this chapter and the rules ~~of the public health council~~ adopted pursuant thereto;

(6) Collect and disseminate health education information relating to safe management of asbestos hazards;

(7) Accept and administer grants from the federal government and other sources, both public and private, for carrying out any of ~~his~~ the director's functions;

(8) As ~~he~~ the director determines appropriate, conduct on-site inspections at any location where an asbestos hazard abatement activity is planned, in progress, or has been completed, at any location where a public health emergency may occur, is occurring, or has occurred, or to evaluate the performance or compliance of any person subject to this chapter;

(9) Conduct an on-site audit of each asbestos hazard training provider approved pursuant to this chapter, at least once biennially, during an actual course conducted by the provider within the state;

(10) Cooperate and assist in investigations, as such relate to this chapter, conducted by local law enforcement agencies, the Ohio environmental protection agency, the United States occupational safety and health administration, and other local, state, and federal agencies.

Sec. 3710.04. (A) To qualify for an asbestos hazard abatement contractor's license, a business entity or public entity shall meet the requirements of this section.

(B) Each employee or agent of the business entity or public entity applying for a license who will come in contact with asbestos or will be responsible for an asbestos hazard abatement project shall:

(1) Be familiar with all applicable state and federal standards for asbestos hazard abatement projects;

(2) Have successfully completed the course of instruction on asbestos hazard abatement activities, for their particular certification, approved by the department of health pursuant to section 3710.10 of the Revised Code, have passed an examination approved by the department, and demonstrate to the department that ~~he~~ the employee or agent is capable of complying with all applicable standards of this state, the United States environmental protection agency, and the United States occupational safety and health administration.

(C) A business entity or public entity applying for an asbestos hazard abatement contractor's license shall, in addition to the other requirements of this section, provide at least one asbestos hazard abatement specialist,

certified pursuant to this chapter and the rules ~~of the public health council~~ adopted ~~pursuant thereto~~ under it, for each asbestos hazard abatement project, and demonstrate to the satisfaction of the department that ~~he~~ the applicant:

(1) Has access to at least one asbestos disposal site approved by the Ohio environmental protection agency that is sufficient for the deposit of all asbestos waste that ~~he~~ the applicant will generate during the term of the license;

(2) Is sufficiently qualified to safely remove asbestos, demonstrated by reliability as an asbestos hazard abatement contractor, possesses a work program that prevents the contamination or recontamination of the environment and protects the public health from the hazards of exposure to asbestos, possesses evidence of certification of each individual employee or agent who will be responsible for others who may come in contact with friable asbestos-containing materials, possesses evidence of training of workers required by section 3710.07 of the Revised Code, and has prior successful experience in asbestos hazard abatement projects or equivalent qualifications as determined ~~by rule~~ in accordance with rules adopted by the ~~public~~ director of health council;

(3) Possesses a worker protection program consistent with requirements established by the ~~public health council~~ director if the contractor is a public entity, and a worker protection program consistent with the requirements of the United States occupational safety and health administration if the contractor is a business entity;

(4) Is registered as a business entity with the secretary of state.

(D) No applicant for licensure as an asbestos hazard abatement contractor, in order to meet the requirements of this chapter, shall list an employee of another contractor.

(E) The business entity or public entity shall meet any other standards that the ~~public health council~~ director, by rule, sets.

(F) Nothing in this chapter or the rules adopted pursuant thereto relating to asbestos hazard abatement project designers shall be interpreted as authorizing or permitting an individual who is certified as an asbestos hazard abatement project designer to perform the services of a registered architect or professional engineer unless that person is registered under Chapter 4703. or 4733. of the Revised Code to perform such services.

Sec. 3710.05. (A) Except as otherwise provided in this chapter, no person shall engage in any asbestos hazard abatement activities in this state unless licensed or certified pursuant to this chapter.

(B) To apply for licensure as an asbestos abatement contractor or

certification as an asbestos hazard abatement specialist, an asbestos hazard evaluation specialist, an asbestos hazard abatement project designer, or an asbestos hazard abatement air-monitoring technician, a person shall do all of the following:

(1) Submit a completed application to the department of health, on a form provided by the department;

(2) Pay the requisite fee as provided in division (D) of this section;

(3) Submit any other information the ~~public~~ director of health ~~council~~ by rule requires.

(C) The application form for a business entity or public entity applying for an asbestos hazard abatement contractor's license shall include all of the following:

(1) A description of the protective clothing and respirators that the public entity will use to comply with rules adopted by the ~~public health council~~ director and that the business entity will use to comply with requirements of the United States occupational safety and health administration;

(2) A description of procedures the business entity or public entity will use for the selection, utilization, handling, removal, and disposal of clothing to prevent contamination or recontamination of the environment and to protect the public health from the hazards associated with exposure to asbestos;

(3) The name and address of each asbestos disposal site that the business entity or public entity might use during the year;

(4) A description of the site decontamination procedures that the business entity or public entity will use;

(5) A description of the asbestos hazard abatement procedures that the business entity or public entity will use;

(6) A description of the procedures that the business entity or public entity will use for handling waste containing asbestos;

(7) A description of the air-monitoring procedures that the business entity or public entity will use to prevent contamination or recontamination of the environment and to protect the public health from the hazards of exposure to asbestos;

(8) A description of the final clean-up procedures that the business entity or public entity will use;

(9) A list of all partners, owners, and officers of the business entity along with their social security numbers;

(10) The federal tax identification number of the business entity or the public entity.

(D) The fees to be charged to each public entity and business entity and their employees and agents for licensure, certification, approval, and renewal of licenses, certifications, and approvals granted under this chapter, subject to division (A)(4) of section 3710.02 of the Revised Code, are:

(1) Seven hundred fifty dollars for asbestos hazard abatement contractors;

(2) Two hundred dollars for asbestos hazard abatement project designers;

(3) Fifty dollars for asbestos hazard abatement workers;

(4) Two hundred dollars for asbestos hazard abatement specialists;

(5) Two hundred dollars for asbestos hazard evaluation specialists; and

(6) Nine hundred dollars for approval or renewal of asbestos hazard training providers.

(E) Notwithstanding division (A) of this section, no business entity which engages in asbestos hazard abatement activities solely at its own place of business is required to be licensed as an asbestos hazard abatement contractor provided that the business entity is required to and does comply with all applicable standards of the United States environmental protection agency and the United States occupational safety and health administration and provided further that all persons employed by the business entity on the activity meet the requirements of this chapter.

Sec. 3710.051. No person shall enter into an agreement to perform any aspect of an asbestos hazard abatement project unless the agreement is written and contains at least all of the following:

(A) A requirement that all persons working on the project are licensed or certified by the department of health as required by this chapter;

(B) A requirement that all project clearance levels and sampling be in accordance with ~~the public health council~~ rules adopted by the director of health;

(C) A requirement that all clearance air-monitoring be conducted by asbestos hazard abatement air-monitoring technicians or asbestos hazard evaluation specialists certified by the department.

Sec. 3710.06. (A) Within fifteen business days after receiving an application, the department of health shall acknowledge receipt of the application and notify the applicant of any deficiency in the application. Within sixty calendar days after receiving a completed application, including all additional information requested by the department, the department shall issue a license or certificate or deny the application. The department shall issue only one license or certificate that is in effect at one time to a business entity and its principal officers and a public entity and its

principal officers.

(B)(1) The department shall deny an application if it determines that the applicant has not demonstrated the ability to comply fully with all applicable federal and state requirements and all requirements, procedures, and standards established by the ~~public~~ director of health council in this chapter.

(2) The department shall deny any application for an asbestos hazard abatement contractor's license if the applicant or an officer or employee of the applicant has been convicted of a felony under any state or federal law designed to protect the environment.

(3) The department shall send all denials of an application by certified mail to the applicant. If the department receives a timely request for a hearing from the applicant, as provided in division (D) of section 3710.13 of the Revised Code, the department shall hold a hearing in accordance with Chapter 119. of the Revised Code.

(C) In an emergency that results from a sudden, unexpected event that is not a planned asbestos hazard abatement project, the department may waive the requirements for a license or certificate. For the purposes of this division, "emergency" includes operations necessitated by nonroutine failures of equipment or by actions of fire and emergency medical personnel pursuant to duties within their official capacities. Any person who performs an asbestos hazard abatement activity under emergency conditions shall notify the director within three days after performance thereof.

(D) Each license or certificate issued under this chapter expires one year after the date of issue, but each licensee or certificate holder may apply to the department for the extension of ~~his~~ the holder's license or certificate under the standard renewal procedures of Chapter 4745. of the Revised Code.

To qualify for renewal of a license or certificate issued under this chapter, each licensee or certificate holder shall send the appropriate renewal fee set forth in division (D) of section 3710.05 of the Revised Code or as adopted by rule by the ~~public health council~~ director pursuant to division (A)(4) of section 3710.02 of the Revised Code.

Certificate holders also shall successfully complete an annual renewal course approved by the department pursuant to section 3710.10 of the Revised Code.

(E) The department may charge a fee in addition to those specified in division (D) of section 3710.05 of the Revised Code or in ~~rule of rules~~ adopted by the public health council director pursuant to division (A)(4) of section 3710.02 of the Revised Code if the licensee or certificate holder applies for renewal after the expiration thereof or requests a reissuance of

any license or certificate, provided that no such fee shall exceed the original fees by more than fifty per cent.

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard abatement project, an asbestos hazard abatement contractor shall do all of the following:

(1) Prepare a written respiratory protection program as defined by the ~~public~~ director of health ~~council~~ pursuant to rule, and make the program available to the department of health, and workers at the job site if the contractor is a public entity or prepare a written respiratory protection program, consistent with 29 C.F.R. 1910.134 and make the program available to the department, and workers at the job site if the contractor is a business entity;

(2) Ensure that each worker who will be involved in any asbestos hazard abatement project has been examined within the preceding year and has been declared by a physician to be physically capable of working while wearing a respirator;

(3) Ensure that each of the contractor's employees or agents who will come in contact with asbestos-containing materials or will be responsible for an asbestos hazard abatement project receives the appropriate certification or licensure required by this chapter and the following training:

(a) An initial course approved by the department pursuant to section 3710.10 of the Revised Code, completed before engaging in any asbestos hazard abatement project; and

(b) An annual review course approved by the department pursuant to section 3710.10 of the Revised Code.

(B) After obtaining or renewing a license, an asbestos hazard abatement contractor shall notify the department, on a form approved by the director of health, at least ten days before beginning each asbestos hazard abatement project conducted during the term of the contractor's license.

(C) In addition to any other fee imposed under this chapter, an asbestos hazard abatement contractor shall pay, at the time of providing notice under division (B) of this section, the department a fee of sixty-five dollars for each asbestos hazard abatement project conducted.

Sec. 3710.08. (A) An asbestos hazard abatement contractor engaging in any asbestos hazard abatement project shall, during the course of the project:

(1) Conduct each project in a manner that is in compliance with the requirements the director of environmental protection adopts pursuant to section 3704.03 of the Revised Code and the asbestos requirements of the United States occupational safety and health administration set forth in 29

C.F.R. 1926.58;

(2) Comply with all applicable rules adopted by the ~~public~~ director of health council pursuant to section 3710.02 of the Revised Code.

(B) An asbestos hazard abatement contractor that is a public entity shall:

(1) Provide workers with protective clothing and equipment and ensure that the workers involved in any asbestos hazard abatement project use the items properly. Protective clothing and equipment shall include:

(a) Respirators approved by the national institute of occupational safety and health. These respirators shall be fit tested in accordance with requirements of the United States occupational safety and health administration set forth in 29 C.F.R. 1926.58(h). At the request of an employee, the asbestos hazard abatement contractor shall provide the employee with a powered air purifying respirator, in which case, the testing requirements of division (B)(1)(a) of this section do not apply.

(b) Items required by the ~~public~~ director of health council by rule as provided in division (A)(7) of section 3710.02 of the Revised Code.

(2) Comply with all applicable standards of conduct and requirements adopted by ~~the public health council and~~ the director of health pursuant to section 3710.02 of the Revised Code.

(C) An asbestos hazard abatement specialist engaging in any asbestos hazard abatement project shall, during the course of the project:

(1) Conduct each project in a manner that will meet decontamination procedures, project containment procedures, and asbestos fiber dispersal methods as provided in division (A)(6) of section 3710.02 of the Revised Code;

(2) Ensure that workers utilize, handle, remove, and dispose of the disposable clothing provided by abatement contractors in a manner that will prevent contamination or recontamination of the environment and protect the public health from the hazards of exposure to asbestos;

(3) Ensure that workers utilize protective clothing and equipment and comply with the applicable health and safety standards set forth in division (A) of section 3710.08 of the Revised Code;

(4) Ensure that there is no smoking, eating, or drinking in the work area;

(5) Comply with all applicable standards of conduct and requirements adopted by the ~~public health council and~~ director of health pursuant to section 3710.02 of the Revised Code.

(D) An asbestos hazard evaluation specialist engaged in the identification, detection, and assessment of asbestos-containing materials, the determination of appropriate response actions, or other activities associated with an abatement project or the preparation of management

plans, shall comply with the applicable standards of conduct and requirements adopted by ~~the public health council~~ and the director of health pursuant to section 3710.02 of the Revised Code.

(E) Every asbestos hazard abatement worker shall comply with all applicable standards adopted by the public director of health ~~council~~ pursuant to section 3710.02 of the Revised Code.

(F) The department may, on a case-by-case basis, approve an alternative to the worker protection requirements of divisions (A), (B), and (C) of this section for an asbestos hazard abatement project conducted by a public entity, provided that the asbestos hazard abatement contractor submits the alternative procedure to the department in writing and demonstrates to the satisfaction of the department that the proposed alternative procedure provides equivalent worker protection.

Sec. 3710.09. (A) As a means of protecting the public, each asbestos hazard abatement contractor licensed under this chapter shall maintain records of all asbestos hazard abatement projects which ~~he~~ the contractor performs and make these records available to the department of health upon request. The licensee shall maintain the records for at least thirty years.

(B) The records required by this section shall include all of the following:

(1) The name, social security number, and address of the person who supervised the asbestos hazard abatement project;

(2) The names and social security numbers of all workers at the job site;

(3) The location and description of the asbestos hazard abatement project and the amount of asbestos-containing material that was removed;

(4) The starting and completion dates of each asbestos hazard abatement project;

(5) A summary of the procedures that were used to comply with all applicable federal, state, and local standards;

(6) The name and address of each asbestos disposal site where the waste containing asbestos was deposited;

(7) Any other information that the public director of health ~~council~~, by rule, requires.

Sec. 3710.10. (A) No person other than the department of health shall conduct or offer to conduct any initial or review training course or examination required by this chapter unless that person is approved to sponsor the courses and examinations under this section. In conducting any such course or examination, the department and the approved person shall administer the courses and examinations according to the United States environmental protection agency "Model Accreditation Plan," 40 C.F.R.

763, Subpart E, Appendix C, and the rules of the ~~public~~ director of health council adopted pursuant to division (A)(3) of section 3710.02 of the Revised Code. A person may apply for approval or renewal of a course on the health and safety aspects of asbestos hazard abatement activities which meets the requirements of division (A)(3) of section 3710.07 of the Revised Code by submitting a written application on forms provided by the department.

(B) In order to obtain or renew department approval, a person sponsoring a course shall substantially satisfy all of the following criteria:

(1) Provide courses of instruction and examinations that meet the requirements of division (A) of this section;

(2) Ensure that instruction is given or supervised by personnel with sufficient education and experience as determined, ~~by rule,~~ in rules adopted by the ~~public health council~~ director;

(3) Maintain lists of students trained and the dates on which training occurred for at least twenty years, and make this information available to the department upon request.

(C) In order to obtain or renew department approval, a person sponsoring an initial course or a review course annually shall apply to the department for approval. In applying, the person shall submit the fee set forth in division (D) of section 3710.05 of the Revised Code along with any increase in fee adopted pursuant to division (A)(4) of section 3710.02 of the Revised Code.

(D)(1) The department shall act or acknowledge receipt of an application within ten working days after receiving the application.

(2) The department shall act on the application within ninety days after it is complete.

(3) The department shall grant contingent approval of an application if the department determines the course substantially satisfies or will substantially satisfy the criteria in this chapter and the rules adopted by the ~~public health council~~ director.

(4) The department may deny or revoke approval of a course if the department determines the course does not or will not substantially satisfy the criteria in this chapter or the rules adopted by the ~~public health council~~ director.

(5) The department shall grant final approval of a course only after an on-site audit by the department which reveals that the course substantially satisfies the criteria in this chapter and the rules adopted by the ~~public health council~~ director. Course approvals expire one year from the date of final approval under division (D)(5) of this section.

(E) Each course approval issued under this section expires one year after the date of issue, but a person who received approval may apply to the department for renewal under the standard renewal procedures of Chapter 4745. of the Revised Code. The fee prescribed in section 3710.05 of the Revised Code must accompany the application.

Sec. 3710.12. Subject to the hearing provisions of this chapter, the department of health may deny, suspend, or revoke any license or certificate, or renewal thereof, if the licensee or certificate holder:

(A) Fraudulently or deceptively obtains or attempts to obtain a license or certificate;

(B) Fails at any time to meet the qualifications for a license or certificate;

(C) Is violating or threatening to violate any provisions of any of the following:

(1) This chapter or the rules of the ~~public health council~~ or director of health adopted pursuant thereto;

(2) The "National Emission Standard for Hazardous Air Pollutants" regulations of the United States environmental protection agency as the regulations pertain to asbestos; ~~or~~

(3) The regulations of the United States occupational safety and health administration as the regulations pertain to asbestos.

Sec. 3710.13. (A) Except as otherwise provided in Chapter 119. of the Revised Code or this section, before the department of health takes any action under section 3710.12 of the Revised Code, it shall give the licensee or certificate holder against whom action is contemplated an opportunity for a hearing.

Except as otherwise provided in this section, the department shall give notice and hold the hearing in accordance with Chapter 119. of the Revised Code.

(B) The department, without notice or hearing and in accordance with ~~the rules of adopted by the public director of health council~~, may issue an order requiring any action necessary to meet a public health emergency involving asbestos. Any person to whom an order is directed shall immediately comply with the order. Upon application to the director of health, the person shall be afforded a hearing as soon as possible, but no more than twenty days after receipt of the application by the director.

(C) If the director determines, pursuant to division (B) of this section, that a public health emergency exists, ~~he~~ the director may order, without a hearing, the denial, suspension, or revocation of any license or certificate issued under this chapter of the parties involved, provided that an

opportunity for a hearing is provided to the affected party as soon as reasonably possible.

(D) All proceedings under this chapter are subject to Chapter 119. of the Revised Code, except that:

(1) Upon the request of a licensee or certificate holder, the location of an adjudicatory hearing is the county seat of the county in which the licensee or certificate holder conducts business.

(2) The director shall notify, by certified mail or personal delivery, a licensee or certificate holder that ~~he~~ the licensee or certificate holder is entitled to a hearing if ~~he~~ the licensee or certificate holder requests it, in writing, within ten days of the time that ~~he~~ the licensee or certificate holder receives the notice. If the licensee or certificate holder requests such a hearing, the director shall set the hearing date no later than ten days after the director receives the request.

(3) The director shall not apply for or receive a postponement or continuation of an adjudication hearing. If a licensee or certificate holder requests a postponement or continuation of an adjudication hearing, the director only shall grant the request if the licensee or certificate holder demonstrates extreme hardship in complying with the hearing date. If the director grants a postponement or continuation on the grounds of extreme hardship, the director shall include in the record of the case, the nature and cause of the extreme hardship.

(4) In lieu of an adjudicatory hearing required by this chapter, a licensee or certificate holder, by no later than the date set for a hearing pursuant to division (A)(3) of this section, may by written request to the director, request that the matter be resolved by the licensee or certificate holder submitting documents, papers, and other written evidence to the director to support ~~his~~ the licensee's or certificate holder's claim.

(5) If the director appoints a referee or an examiner to conduct a hearing, all of the following apply:

(a) The examiner or referee shall serve, by certified mail and within three business days of the conclusion of the hearing, a copy of the written adjudication report and ~~his~~ the referee's or examiner's recommendations, on the director and the affected licensee or certificate holder or the licensee's or certificate holder's attorney or other representative of record.

(b) The licensee or certificate holder, within three business days of receipt of the report under division (D)(5)(a) of this section, may file with the director written objections to the report and recommendations.

(c) The director shall consider any objections received under division (D)(5)(b) of this section prior to approving, modifying, or disapproving the

report and recommendations. Within six business days of receiving the report under division (D)(5)(a) of this section, the director shall serve ~~his~~ the director's order, by certified mail, on the affected licensee or certificate holder or the licensee's or certificate holder's attorney or other representative of record.

(6) If the director conducts an adjudicatory hearing under this chapter, ~~he~~ the director shall serve ~~his~~ the director's decision, by certified mail and within three business days of the conclusion of the hearing, on the affected licensee or certificate holder or the licensee's or certificate holder's attorney or other representative of record.

(7) If no hearing is held, the director shall issue an order, by certified mail and within three business days of the last date possible for a hearing, based upon the record available to ~~him~~ the director, to the affected licensee or certificate holder or the licensee's or certificate holder's attorney or other representative of record.

(8) A licensee or certificate holder shall file a notice of appeal to an adverse adjudication decision within fifteen days after receipt of the director's order.

Sec. 3710.17. (A) Where any person is certified or licensed by the department of health to engage in asbestos hazard abatement or evaluation activity pursuant to this chapter, the liability of that person when performing such activity in accordance with procedures established pursuant to state or federal law for an injury to any individual or property caused or related to this activity shall be limited to acts or omissions of the person during the course of performing the activity which can be shown, based on a preponderance of the evidence, to have been negligent. For the purposes of this section, the demonstration that acts or omissions of a person performing asbestos hazard abatement or evaluation activities were in accordance with generally accepted practice and with procedures established by state or federal law at the time the abatement or evaluation activity was performed creates a rebuttable presumption that the acts or omissions were not negligent.

(B) Where any person contracts with a certified asbestos hazard abatement specialist, asbestos hazard evaluation specialist, or other category of asbestos hazard specialist established by the ~~public~~ director of health ~~council~~, or a licensed asbestos hazard abatement contractor, the liability of that person for asbestos-related injuries caused by ~~his~~ the person's contractee in the performance of asbestos hazard abatement or evaluation activities shall be limited to those asbestos-related injuries arising from acts which the person knew or could reasonably have been expected to know were not in

accordance with generally accepted practice or with procedures established by state or federal law at the time the abatement activity took place.

(C) Notwithstanding any other provisions of the Revised Code or rules of a court to the contrary, this section governs all claims for asbestos-related injuries arising from asbestos hazard abatement or evaluation activities.

Sec. 3711.04. Each person seeking to operate a maternity unit, newborn care nursery, or maternity home shall apply to the director of health for a license under this chapter. The application shall be submitted in the form and manner prescribed by the ~~public health council~~ director in rules adopted under section 3711.12 of the Revised Code.

A single application and license is required if an applicant will operate both a maternity unit and newborn care nursery.

Sec. 3711.06. The director of health shall inspect each maternity unit, newborn care nursery, or maternity home for which a person has applied for an initial license under section 3711.04 of the Revised Code prior to issuing the license. Inspections shall be conducted in accordance with inspection criteria, procedures, and guidelines adopted by the ~~public health council~~ director under section 3711.12 of the Revised Code.

Sec. 3711.08. A license issued under this chapter is valid for three years, unless earlier revoked or suspended under section 3711.14 of the Revised Code. The license may be renewed in the manner prescribed by the ~~public director of health council~~ director in rules adopted under section 3711.12 of the Revised Code. The license renewal fee specified in the rules shall be paid not later than sixty days after the director of health mails an invoice for the fee to the license holder. A penalty of ten per cent of the amount of the renewal fee shall be assessed for each month the fee is overdue.

Sec. 3711.12. (A) The ~~public~~ director of health council shall adopt rules in accordance with Chapter 119. of the Revised Code as the ~~council~~ director considers necessary to implement the requirements of this chapter for licensure and operation of maternity units, newborn care nurseries, and maternity homes. The rules shall include provisions for the following:

- (1) Licensure application forms and procedures;
- (2) Renewal procedures, including procedures that address the right of the director of health, at the director's sole discretion, to conduct an inspection prior to renewal of a license;
- (3) Initial license fees and license renewal fees;
- (4) Fees for inspections conducted by the director under section 3711.10 of the Revised Code;
- (5) Safety standards, quality-of-care standards, and quality-of-care data reporting requirements;

- (6) Reporting and auditing requirements;
- (7) Inspection criteria, procedures, and guidelines;
- (8) Any other rules necessary to implement this chapter.

(B) When adopting rules under this section, the ~~public health council~~ director shall give consideration to recommendations regarding obstetric and newborn care issued by the American college of obstetricians and gynecologists; American academy of pediatrics; American academy of family physicians; American society of anesthesiologists; American college of nurse-midwives; United States centers for disease control and prevention; association of women's health, obstetric and neonatal nurses; and association of perioperative registered nurses, or their successor organizations. The ~~council~~ director shall also consider the recommendations of the maternity and newborn advisory council established in section 3711.20 of the Revised Code.

Sec. 3711.21. The maternity and newborn advisory council shall do all of the following:

(A) Advise and consult with the director of health in the development of rules to be ~~presented to the public health council for proposed adoption~~ adopted under this chapter;

(B) Advise and consult with the director concerning the implementation and enforcement of this chapter;

(C) Advise and consult with the director in the development of inspection criteria, procedures, and guidelines to be used in enforcement of this chapter;

(D) Advise and consult with the director regarding recommendations ~~to be presented to the public health council~~ regarding improving maternity and newborn care in this state;

(E) Prepare and submit to the director an annual report evaluating the department's enforcement of this chapter.

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

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

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

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

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

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

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

(7) Establishing interpretive guidelines for each rule.

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

(C) The department of health shall:

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

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

(3) Implement and enforce this chapter and rules adopted under it.

Sec. 3712.04. (A) Every person or public agency that proposes to provide a hospice care program shall apply to the department of health for a license. Application shall be made on forms prescribed and provided by the department, shall include such information as the department requires, and shall be accompanied by the license fee established by rules of the ~~public health council~~ director of health adopted under division (A) of section 3712.03 of the Revised Code.

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

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

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

(D) A hospital, nursing home, home for the aged, county medical care facility, or other health facility or agency that provides a hospice care program shall be licensed to provide a hospice care program under this section.

(E) A nursing home licensed under Chapter 3721. of the Revised Code that does not hold itself out to be a hospice, does not hold itself out as providing a hospice care program, does not use the term hospice to describe or refer to its activities or facilities, and that does not provide all of the services enumerated in division (A) of section 3712.01 of the Revised Code is not subject to the licensing provisions of this chapter.

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

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

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

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

(B)(1) Except as provided in division (I) of this section, the chief administrator of a hospice care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check ~~with respect to~~ of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal

records check.

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

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

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

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

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

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

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

(2)(a) A hospice care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a hospice care program may employ conditionally an applicant who has been referred to the hospice care program by an employment

service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults 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 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 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 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 that is owned or operated by the same entity that owns or operates the hospice care program;

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

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

(F) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a hospice care program 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~~ director.

(G) The chief administrator of a hospice care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, 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 employs in a position that involves providing direct care to older adults, 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 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 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 chooses to employ the individual pursuant to division (F) of this section.

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

Sec. 3713.01. As used in sections 3713.01 to 3713.10 of the Revised

Code:

(A) "Person" has the same meaning as used in division (C) of section 1.59 of the Revised Code and also means any limited company, limited liability partnership, joint stock company, or other association.

(B) "Bedding" means any upholstered furniture, any mattress, upholstered spring, comforter, bolster, pad, cushion, pillow, mattress protector, quilt, and any other upholstered article, to be used for sleeping, resting, or reclining purposes, and any glider, hammock, or other substantially similar article that is wholly or partly upholstered.

(C) "Secondhand" means any article, or material, or portion thereof of which prior use has been made in any manner whatsoever.

(D) "Remade, repaired, or renovated articles not for sale" means any article that is remade, repaired, or renovated for and is returned to the owner for the owner's own use.

(E) "Sale," "sell," or "sold" shall, in the corresponding tense, mean sell, offer to sell, or deliver or consign in sale, or possess with intent to sell, or deliver in sale.

(F) "Upholstered furniture" means any article of furniture wholly or partly stuffed or filled with material and that is used or intended for use for sitting, resting, or reclining purposes.

(G) "Stuffed toy" means any article intended for use as a plaything or for an educational or recreational purpose that is wholly or partially stuffed with material.

(H) "Tag" or "label" means any material prescribed by the superintendent of ~~labor~~ industrial compliance to be attached to an article that contains information required under this chapter.

Sec. 3713.02. (A) Except as provided in section 3713.05 of the Revised Code, no person shall import, manufacture, renovate, wholesale, or reupholster stuffed toys or articles of bedding in this state without first registering to do so with the superintendent of ~~labor~~ industrial compliance in accordance with section 3713.05 of the Revised Code.

(B) No person shall manufacture, offer for sale, sell, deliver, or possess for the purpose of manufacturing, selling, or delivering, an article of bedding or a stuffed toy that is not labeled in accordance with section 3713.08 of the Revised Code.

(C) No person shall manufacture, offer for sale, sell, deliver, or possess for the purpose of manufacturing, selling, or delivering, an article of bedding or a stuffed toy that is falsely labeled.

(D) No person shall sell or offer for sale any secondhand article of bedding or any secondhand stuffed toy that has not been sanitized in

accordance with section 3713.08 of the Revised Code.

(E) The possession of any article of bedding or stuffed toy in the course of business by a person required to obtain registration under this chapter, or by that person's agent or servant shall be prima-facie evidence of the person's intent to sell the article of bedding or stuffed toy.

Sec. 3713.03. The superintendent of ~~labor~~ industrial compliance in the department of commerce shall administer and enforce this chapter.

Sec. 3713.04. (A) In accordance with Chapter 119. of the Revised Code, the superintendent of ~~labor~~ industrial compliance shall:

(1) Adopt rules pertaining to the definition, name, and description of materials necessary to carry out this chapter;

(2) Determine the testing standards, fees, and charges to be paid for making any test or analysis required pursuant to section 3713.08 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the superintendent may adopt rules regarding the following:

(1) Establishing an initial application fee or an annual registration renewal fee not more than fifty per cent higher than the fees set forth in section 4713.05 of the Revised Code;

(2) Establishing standards, on a reciprocal basis, for the acceptance of labels and laboratory analyses from other states where the labeling requirements and laboratory analysis standards are substantially equal to the requirements of this state, provided the other state extends similar reciprocity to labels and laboratory analysis conducted under this chapter;

(3) Any other rules necessary to administer and carry out this chapter.

(C) The superintendent may do any of the following:

(1) Issue administrative orders, conduct hearings, and take all actions necessary under the authority of Chapter 119. of the Revised Code for the administration of this chapter. The authority granted under this division shall include the authority to suspend, revoke, or deny registration under this chapter.

(2) Establish and maintain facilities within the department of commerce to make tests and analysis of materials used in the manufacture of bedding and stuffed toys. The superintendent also may designate established laboratories in various sections of the state that are qualified to make these tests. If the superintendent exercises this authority, the superintendent shall adopt rules to determine the fees and charges to be paid for making the tests or analyses authorized under this section.

(3) Exercise such other powers and duties as are necessary to carry out the purpose and intent of this chapter.

Sec. 3713.05. (A) Applications to register to import, manufacture, renovate, wholesale, make, or reupholster stuffed toys or bedding in this state shall be made in writing on forms provided by the superintendent of ~~labor~~ industrial compliance. The application shall be accompanied by a registration fee of fifty dollars per person unless the applicant engages only in renovation, in which case the registration fee shall be thirty-five dollars.

(B) Upon receipt of the application and the appropriate fee, the superintendent shall register the applicant and assign a registration number to the registrant.

(C) Notwithstanding section 3713.02 of the Revised Code and division (A) of this section, the following are exempt from registration:

(1) An organization described in section 501(c)(3) of the "Internal Revenue Code of 1986," and exempt from income tax under section 501(a) of that code and that is operated exclusively to provide recreation or social services;

(2) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing stuffed toys but who manufactures or makes stuffed toys as a leisure pursuit and who sells one hundred or fewer stuffed toys within one calendar year;

(3) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing quilts, comforters, pillows, or cushions, but who manufactures or makes these items as a leisure pursuit and who sells five or fewer quilts, ten or fewer comforters, or twenty or fewer pillows or cushions within one calendar year.

(D) Notwithstanding division (C)(2) or (3) of this section, a person exempt under that division must attach a label to each stuffed toy that contains all of the following information:

(1) The person's name and address;

(2) A statement that the person is not registered by the state of Ohio;

(3) A statement that the contents of the product have not been inspected.

Sec. 3713.06. (A) Any person required to register under division (A) of section 3713.02 of the Revised Code who imports bedding or stuffed toys into this state for retail sale or use in this state and any person required to register under division (A) of section 3713.02 of the Revised Code who manufactures bedding or stuffed toys in this state for retail sale or use in this state shall submit a report to the superintendent of ~~labor~~ industrial compliance, in a form and manner prescribed by the superintendent. The form shall be submitted once every six months and shall show the total number of items of bedding or stuffed toys imported into this state or manufactured in this state. Each report shall be accompanied by a fee of four

cents for each item of bedding or stuffed toy imported into this state or manufactured in this state.

(B) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall retain records, designated by the superintendent in rule, for the time period established in rule.

(C) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, and auction house shall make sufficient investigation of its records to ensure that the information reported to the superintendent under division (A) of this section is accurate.

Sec. 3713.07. (A) Registration obtained under this chapter expires annually on the last day of the month in the month that the registration was obtained. The superintendent of ~~labor~~ industrial compliance shall renew the registration in accordance with Chapter 4745. of the Revised Code.

(B) Failure on the part of any registrant to renew registration prior to its expiration, when notified as required in this section, shall not deprive the person of the right to renewal within the ninety days that follow expiration, but the fee to be paid for renewal after its expiration shall be one hundred dollars plus the standard registration fee for the registrant.

(C) If a registrant fails to renew registration within ninety days of the date that it expired, the former registrant shall comply with the registration requirements under section 3713.05 of the Revised Code to obtain valid registration.

Sec. 3713.08. (A) All persons required to register under division (A) of section 3713.02 of the Revised Code manufacturing, making, or wholesaling bedding or stuffed toys, or both, that are sold or offered for sale shall have the material content of their products tested and analyzed at an established laboratory designated by the superintendent of ~~labor~~ industrial compliance before the bedding or stuffed toys are sold or offered for sale.

(B) Every stuffed toy or item of bedding sold or offered for sale shall have a label affixed to it that reports the contents of the stuffed toy or bedding material in conformity with requirements established by the superintendent, a registration number, and any other identifying information as required by the superintendent.

(C) The seller of any secondhand articles of bedding or stuffed toys shall sanitize all items in accordance with rules established by the superintendent prior to the sale of or the offering for sale of any secondhand articles.

(D) This section does not apply to any of the following:

(1) Persons who meet the qualifications of division (C)(2) or (3) of section 3713.05 of the Revised Code;

(2) The sale of furniture more than fifty years old;

(3) The sale of furniture from the home of the owner directly to the purchaser.

Sec. 3713.09. (A) The superintendent of ~~labor~~ industrial compliance may appoint inspectors and periodically inspect and investigate any establishment where bedding or stuffed toys are manufactured, made, remade, renovated, repaired, sanitized, sold, or offered for sale, or where previously used material is processed for use in the manufacture of bedding or stuffed toys.

(1) Each inspector shall make a written report to the superintendent of each examination and inspection complete with the inspector's findings and recommendations. Inspectors may place "off sale" any article of bedding or stuffed toy offered for sale, or found in the possession of any person with the intent to sell, in violation of section 3713.02 of the Revised Code. Inspectors shall perform other duties related to inspection and examination as prescribed by the superintendent.

(2) When articles are placed "off sale" under division (A)(1) of this section, they shall be tagged, and the tag shall not be removed except by an authorized representative of the division of ~~labor~~ industrial compliance after the violator demonstrates to the satisfaction of the superintendent proof of compliance with the requirements of section 3713.08 of the Revised Code.

(B)(1) When an inspector has cause to believe that any bedding or stuffed toy is not tagged or labeled in accordance with section 3713.08 of the Revised Code, the inspector may open any seam of the bedding or stuffed toy in question to examine the material used or contained within it and take a reasonable amount of the material for testing and analysis and, if necessary, examine any and all purchase records in order to determine the contents or the kind of material used in the bedding or stuffed toy in question. An inspector may seize and hold evidence of any article of bedding, stuffed toy, or material manufactured, made, possessed, renovated, remade, or repaired, sold, or offered for sale contrary to this chapter.

(2) Immediately after seizing articles believed to be in violation of this chapter, the inspector immediately shall report the seizure to the superintendent. The superintendent shall hold a hearing in accordance with Chapter 119. of the Revised Code or make a ruling in the matter. If the superintendent finds that the article of bedding, stuffed toy, or material is not in violation of this chapter, the superintendent shall order the item or

items returned to the owner. If the superintendent finds a violation of this chapter, the superintendent may do either of the following:

(a) Return the articles to the owner for proper treatment, tagging or labeling, or other action as ordered by the superintendent, subject to the requirement that the articles be reinspected at cost to the owner, prior to being sold or offered for sale;

(b) Report the violation to the appropriate prosecuting attorney or city law director.

(C) The superintendent, at reasonable times and upon reasonable notice, may examine or cause to be examined the records of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house to determine compliance with this chapter. The superintendent may enter into contracts, pursuant to procedures prescribed by the superintendent, with persons to examine these records to determine compliance with this chapter. These persons may collect and remit to the superintendent any amounts due under this chapter.

(D) Records audited pursuant to division (C) of this section are confidential and shall not be disclosed except as required by section 149.43 of the Revised Code, or as the superintendent finds necessary for the proper administration of this chapter.

(E) In the case of any investigation or examination, or both, that requires investigation or examination outside of this state of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, or of any mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house, the superintendent may require the investigated or examined person to pay the actual expense of the investigation or examination. The superintendent shall provide an itemized statement of actual expenses to the investigated or examined person.

(F) Whenever the superintendent has reason to believe, from the superintendent's own information, upon complaint, or otherwise, that any person has engaged in, is engaging in, or is about to engage in any practice prohibited by this chapter, or when the superintendent has reason to believe that it is necessary for public health and safety, the superintendent may do any of the following:

(1) Investigate violations of this chapter, and for that purpose, may subpoena witnesses in connection with the investigation. The superintendent may make application to the appropriate court of common pleas for an order enjoining the violation of this chapter, and upon a showing by the superintendent that any registrant or person acting in a manner that requires

registration has violated or is about to violate this chapter, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(2) Compel by subpoena the attendance of witnesses to testify in relation to any matter over which the superintendent has jurisdiction and that is the subject of inquiry and investigation by the superintendent, and require the production of any book, paper, or document pertaining to the matter. In case any person fails to file any statement or report, obey any subpoena, give testimony, or produce any books, records, or papers as required by a subpoena, the court of common pleas of any county in the state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt.

(3) Suspend or revoke the registration of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house;

(4) Submit evidence of the violation or violations to any city prosecutor, city director of law, or prosecuting attorney with authority to prosecute. If the city prosecutor, city director of law, or prosecuting attorney with authority to prosecute fails to prosecute, the superintendent shall submit the evidence to the attorney general who may proceed with the prosecution.

Sec. 3713.10. All money collected under this chapter shall be deposited into the state treasury to the credit of the ~~labor~~ industrial compliance operating fund created under section 121.084 of the Revised Code.

Sec. 3714.073. (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code the following fees:

(1) A fee of twelve and one-half cents per cubic yard or twenty-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code;

(2) A fee of thirty-seven and one-half cents per cubic yard or seventy-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the recycling and litter prevention fund created in section ~~1502.02~~ 3736.03 of the Revised Code.

(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall collect the fees

levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section and may enter into an agreement for the quarterly payment of the fees in the manner established in division (B) of that section for the quarterly payment of the fee that is levied under division (A)(1) of that section.

(C) The money that is collected from a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state not later than forty-five days after the receipt of the money to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(1) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(2) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3715.01. (A) As used in this chapter:

(1) ~~"Public health council" means the public health council established by section 3701.33 of the Revised Code.~~

~~(2)~~ "Person" means an individual, partnership, corporation, or association.

~~(3)~~(2) "Food" means:

- (a) Articles used for food or drink for humans or animals;
- (b) Chewing gum;
- (c) Articles used for components of any such articles.

~~(4)~~(3) "Drug" means:

- (a) Articles recognized in the United States pharmacopoeia and national formulary, or any supplement to them;
- (b) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
- (c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals;
- (d) Articles intended for use as a component of any of the foregoing articles, other than devices or their components, parts, or accessories.

~~(5)~~(4) "Device," except when used in division (B)(1) of this section and in division (A)(10) of section 3715.52, division (F) of section 3715.60, division (A)(5) of section 3715.64, and division (C) of section 3715.67 of the Revised Code, means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is any of the following:

- (a) Recognized in the United States pharmacopoeia and national formulary, or any supplement to them;
- (b) Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease in humans or animals;
- (c) Intended to affect the structure or any function of the body of humans or animals, and that does not achieve any of its principal intended purposes through chemical action within or on the body of humans or animals and is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

~~(6)~~(5) "Cosmetic" means:

- (a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance;
- (b) Articles intended for use as a component of any such article, except that "cosmetic" does not include soap.

~~(7)~~(6) "Label" means a display of written, printed, or graphic matter upon the immediate container, exclusive of package liners, of any article.

Any word, statement, or other information required by this chapter to appear on the label must appear on the outside container or wrapper, if any, of the retail package of the article, or the label must be easily legible through the outside container or wrapper.

~~(8)~~(7) "Labeling" means all labels and other written, printed, or graphic matter:

- (a) Upon an article or any of its containers or wrappers;
- (b) Accompanying such article.

~~(9)~~(8) "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

~~(10)~~(9) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof;

(b) Any drug the composition of which is such that the drug, as a result of investigation to determine its safety for use under such conditions, has become so recognized, but that has not, other than in an investigation, been used to a material extent or for a material time under such conditions.

~~(11)~~(10) "Contaminated with filth" applies to any food, drug, device, or cosmetic that has not been protected as far as may be necessary by all reasonable means from dust, dirt, and all foreign or injurious substances.

~~(12)~~(11) "Honey" means the nectar and saccharine exudation of plants that has been gathered, modified, and stored in a honeycomb by honeybees.

~~(13)~~(12) "Finished dosage form" means the form of a drug that is, or is intended to be, dispensed or administered to humans or animals and requires no further manufacturing or processing other than packaging, reconstituting, or labeling.

~~(14)~~(13)(a) "Manufacture" means the planting, cultivating, harvesting, processing, making, preparing, or otherwise engaging in any part of the production of a drug by propagating, compounding, converting, or processing, either directly or indirectly by extracting from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes the following:

(i) Any packaging or repackaging of the drug or labeling or relabeling of its container, the promotion and marketing of the drug, and other activities incident to production;

(ii) The preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, licensed health professionals authorized to prescribe drugs, or other persons.

(b) "Manufacture" does not include the preparation, compounding, packaging, or labeling of a drug by a pharmacist as an incident to either of the following:

- (i) Dispensing a drug in the usual course of professional practice;
- (ii) Providing a licensed health professional authorized to prescribe drugs with a drug for the purpose of administering to patients or for using the drug in treating patients in the professional's office.

~~(15)~~(14) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.

~~(16)~~(15) "Generically equivalent drug" means a drug that contains identical amounts of the identical active ingredients, but not necessarily containing the same inactive ingredients; that meets the identical compendial or other applicable standard of identity, strength, quality, and purity, including potency, and where applicable, content uniformity, disintegration times, or dissolution rates, as the prescribed brand name drug and the manufacturer or distributor holds, if applicable, either an approved new drug application or an approved abbreviated new drug application unless other approval by law or from the federal food and drug administration is required.

No drug shall be considered a generically equivalent drug for the purposes of this chapter if it has been listed by the federal food and drug administration as having proven bioequivalence problems.

~~(17)~~(16) "Licensed health professional authorized to prescribe drugs" and "prescriber" have the same meanings as in section 4729.01 of the Revised Code.

~~(18)~~(17) "Home" means the primary residence occupied by the residence's owner, on the condition that the residence contains only one stove or oven used for cooking, which may be a double oven, designed for common residence usage and not for commercial usage, and that the stove or oven be operated in an ordinary kitchen within the residence.

~~(19)~~(18) "Potentially hazardous food" means a food that is natural or synthetic, to which any of the following apply:

- (a) It has a pH level greater than 4.6 when measured at seventy-five degrees fahrenheit or twenty-four degrees celsius.
- (b) It has a water activity value greater than 0.85.
- (c) It requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic

microorganisms, the growth and toxin production of clostridium botulinum, or in the case of raw shell eggs, the growth of salmonella enteritidis.

~~(20)~~(19) "Cottage food production operation" means a person who, in the person's home, produces food items that are not potentially hazardous foods, including bakery products, jams, jellies, candy, fruit butter, and similar products specified in rules adopted pursuant to section 3715.025 of the Revised Code.

(B) For the purposes of sections 3715.52 to 3715.72 of the Revised Code:

(1) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequence which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

(2) The provisions regarding the selling of food, drugs, devices, or cosmetics include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment. The provisions do not prohibit a licensed health professional authorized to prescribe drugs from administering or personally furnishing a drug or device to a patient.

(3) The representation of a drug, in its labeling or advertisement, as an antiseptic is a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use that involves prolonged contact with the body.

(4) Whenever jurisdiction is vested in the director of agriculture or the state board of pharmacy, the jurisdiction of the board shall be limited to the sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the wholesale and retail levels or to the consumer and shall be exclusive in the case of such sale, offering for sale, giving away, delivery, or dispensing in any manner of drugs at the wholesale and retail levels or to the consumer in any place where prescriptions are dispensed or compounded.

(5) To assist in effectuating the provisions of those sections, the director of agriculture or state board of pharmacy may request assistance or data from any government or private agency or individual.

Sec. 3715.025. (A) A cottage food production operation shall not process acidified foods, low acid canned foods, or potentially hazardous foods.

(B) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the food items a cottage food production operation may produce that are in addition to the food items identified by name in division (A)(~~20~~)(19) of section 3715.01 of the Revised Code. The director shall not adopt rules that permit a cottage food production operation to produce any food that is a potentially hazardous food.

Sec. 3715.60. Food is misbranded within the meaning of sections 3715.01, 3715.02, 3715.022, and 3715.52 to 3715.72 of the Revised Code, if:

- (A) Its labeling is false or misleading in any particular.
- (B) It is offered for sale under the name of another food.
- (C) Its container is so made, formed, or filled as to be misleading.
- (D) It is an imitation of another food, unless its label bears in type of uniform size and prominence, the word "imitation," and immediately thereafter the name of the food imitated.
- (E) When it is in package form, it does not bear a label containing:
 - (1) The name and place of business of the manufacturer, packer, or distributor;
 - (2) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that reasonable variations shall be permitted, and exemptions as to small packages shall be established by rules adopted by the director of agriculture;
 - (3) In the case of food subject to section 3715.023 of the Revised Code, the information specified in that section.
- (F) Any word, statement, or other information required by or under authority of sections 3715.01, 3715.02, and 3715.52 to 3715.72 of the Revised Code, to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
- (G) It purports to be, or is represented as, a food for which a definition and standard of identity have been prescribed by statute, or by any rule

adopted under an existing statute, or by rule as provided by section 3715.02 of the Revised Code, unless:

(1) It conforms to such definition and standard.

(2) Its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such statute or rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(H) It purports to be or is represented as:

(1) A food for which a standard of quality has been prescribed by rule as provided by section 3715.02 of the Revised Code and its quality falls below the standard unless its label bears, in the manner and form that the rules specify, a statement that it falls below the standard;

(2) A food for which a standard or standards of fill of container have been prescribed by rule as provided by section 3715.02 of the Revised Code, and it falls below the standard of fill of container applicable thereto, unless its label bears, in the manner and form that the rules specify, a statement that it falls below the standard.

(I) It is not subject to the provisions of division (G) of this section, unless it bears labeling clearly giving:

(1) The common or usual name of the food, if any;

(2) In case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that, to the extent that compliance with the requirements of division (I)(2) of this section is impractical or results in deception or unfair competition, exemptions shall be established by rules adopted by the director; and provided that these requirements shall not apply to any carbonated beverage of which a full and correct statement of the ingredients, to the extent prescribed by division (I)(2) of this section, has been filed under oath with the director.

(J) It purports to be or is represented to be for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as is provided by rules ~~proposed~~ adopted by the director ~~and adopted by the public health council~~, as necessary, in order to fully inform purchasers as to its value for such uses.

(K) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this division is impracticable, exemptions shall be established by rules ~~proposed~~ adopted by the director ~~and adopted by the public health council~~.

Sec. 3715.61. (A) Whenever the director of agriculture finds after investigation that the distribution in this state of any class of food may, by reason of contamination with microorganisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, and in such case only, ~~he the director shall propose regulations for adoption by the public health council~~ adopt rules providing for the issuance, to manufacturers, processor, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the director as provided by such ~~regulations~~ rules.

(B) The director is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the director shall, immediately after prompt hearing and on inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

(C) The director shall have access to any factory or establishment, the operator of which holds a permit from the director for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

Sec. 3715.62. Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be unsafe for purposes of the application of division (B) of section 3715.59 of the Revised Code, but when such substance is so required or cannot be so avoided, the director of agriculture shall ~~propose regulations for adoption by the public health council~~ adopt rules limiting the quantity therein or thereon to such extent as the director finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of division (B) of section 3715.59 of the

Revised Code. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of division (A) of section 3715.59 of the Revised Code. In determining the quantity of such added substance to be tolerated in or on different articles of food, the director shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

Sec. 3715.68. (A) An advertisement of food, drug, device, or cosmetic is false if it is false or misleading in any particular.

(B) For the purpose of sections 3715.01 and 3715.52 to 3715.72 of the Revised Code, the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, tuberculosis, tumors, typhoid, uremia, venereal disease, is also false, except that no advertisement not in violation of division (A) of this section is false under this division if it is disseminated only to members of the medical, dental, pharmaceutical, or veterinary profession, or appears only in the scientific periodicals of these professions; provided, that whenever the director of agriculture determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the director shall ~~propose regulations for adoption by the public health council~~ adopt rules authorizing the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the director may deem necessary in the interests of public health; provided, that this division shall not be construed as indicating that self-medication for diseases other than those named in this section is safe or efficacious.

Sec. 3715.87. (A) As used in this section and in sections 3715.871, 3715.872, and 3715.873 of the Revised Code:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Health care facility" has the same meaning as in section 1337.11 of the Revised Code.

(3) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(4) "Nonprofit clinic" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides health care services to indigent and uninsured persons as defined in section 2305.234 of the Revised Code. "Nonprofit clinic" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a facility that is operated for profit.

(5) "Prescription drug" means any drug to which the following applies:

(a) Under the "Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend, "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription.

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

(B) The state board of pharmacy shall establish a drug repository program to accept and dispense prescription drugs donated or given for the purpose of being dispensed to individuals who are residents of this state and meet eligibility standards established in rules adopted by the board under section 3715.873 of the Revised Code. Except as provided in division (C) of this section, all of the following conditions shall apply to the program:

(1) Only drugs in their original sealed and tamper-evident unit dose packaging may be accepted and dispensed;

(2) The packaging must be unopened, except that drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is undisturbed;

(3) ~~Drugs donated by individuals bearing an expiration date that is less than six months from the date the drug is donated shall not be accepted or dispensed;~~

(4) A drug shall not be accepted or dispensed if there is reason to believe that it is adulterated as described in section 3715.63 of the Revised Code.

(C) Orally administered cancer drugs that are not controlled substances and that do not require refrigeration, freezing, or storage at a special temperature may be accepted and dispensed even if not in original sealed and tamper-evident unit dose packaging, subject to rules adopted by the

board pursuant to section 3715.873 of the Revised Code.

(D) Subject to the limitations specified in divisions (B) and (C) of this section, unused drugs dispensed for purposes of the medicaid program may be accepted and dispensed under the drug repository program.

Sec. 3716.01. As used in sections 3716.01 to 3716.07, inclusive, of the Revised Code:

(A) "Department" means the department of health.

(B) "Director" means the director of health.

(C) "Person" includes an individual, partnership, corporation, or association.

(D) "Hazardous substance" means any substance or mixture of substances which is toxic, corrosive, an irritant, strong sensitizer, flammable, or which generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or illness during any customary or reasonably anticipated handling or use.

(E) "Toxic" applies to any substance which has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface.

(F)(1) "Highly toxic" means any substance which falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered;

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas, vapor, mist, or dust provided such concentration is likely to be encountered by ~~man~~ a human being when the substance is used in any reasonably foreseeable manner;

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four hours or less.

(2) If the director finds that available data on human experience with any substance indicates results different from those obtained on animals in the above named dosages or concentrations, the human data shall take precedence.

(G) "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces.

(H) "Irritant" means any substance not corrosive within the meaning of division (G) of this section which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(I) "Strong sensitizer" means any substance which will cause on normal living tissue, through an allergic or photodynamic process, a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the director. Before designating any substance as a strong sensitizer, the director shall, after public hearing following due notice, find that the frequency of occurrence and severity of the reaction indicate a significant potential for causing hypersensitivity.

(J) "Extremely flammable" applies to any substance which has a flash point at or below twenty degrees Fahrenheit as determined by the tagliabue open cut tester.

(K) "Flammable" applies to any substance which has a flash point of above twenty degrees to and including eighty degrees Fahrenheit, as determined by the tagliabue open cut tester; except that the flammability of the contents of self-pressurized containers shall be determined by methods generally applicable to such containers and established by regulation of the ~~public health council~~ director.

(L) "Label" means a display of written, printed, or graphic matter upon or attached to the immediate package or container of any substance. Any word, statement, or other information required by sections 3716.01 to 3716.07, inclusive, of the Revised Code, to appear on the label must also appear (1) on the outside container or wrapper, if any, unless it is easily legible through the outside container or wrapper, and (2) on all accompanying literature where there are directions for use, written or otherwise.

(M) "Immediate container" does not include package liners.

(N) "Misbranded package" means any container of a hazardous substance intended or suitable for household use which fails to bear a label:

(1) Which states conspicuously:

(a) The name and place of business of the manufacturer, packer, or distributor;

(b) The common or usual name, or the chemical name or the recognized generic name (not trade name only) of the hazardous substance or of each component which contributes substantially to its hazard;

(c) The signal word "DANGER" on substances which are extremely flammable, corrosive, or which:

(i) Produce death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of one gram or less per kilogram of body weight, when orally administered;

(ii) Produce death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, when inhaled continuously for a period of one hour or less at an atmospheric concentration of two thousand parts per million by volume of gas, vapor, mist, or dust, provided such concentration is likely to be encountered by ~~man~~ a human being when the substances are used in any reasonably foreseeable manner;

(iii) Produce death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of one gram or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four hours or less;

(iv) If the director finds that available data on human experience with any substance indicates results different from those obtained on animals in the above named dosages or concentrations, ~~he~~ the director may require the use of the signal word "DANGER" on such substance or permit use of the signal word "WARNING" or "CAUTION" on such substance.

(d) The signal word "WARNING" or "CAUTION" on all other hazardous substances;

(e) An affirmative statement of the principal hazard or hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard;

(f) Precautionary measures describing the action to be followed or avoided;

(g) Instructions, when necessary, for the first-aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure;

(h) The word "poison" for any hazardous substance which is defined as "highly toxic" by division (F) of this section;

(i) Instructions for handling and storage of packages which require special care in handling or storage;

(j) The statement "Keep out of the reach of children," or its practical equivalent.

(2) On which any statements required under division (N) (1) of this section are located prominently and are in the English language in legible

type in contrast by typography, layout, or color with other printed matter on the label.

The ~~public health council~~ director shall, by regulations, provide for minimum information which shall appear on the labels for small packages, which labels need not include all of the information required by this section. The director may permit less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded package" does not apply to packages of economic poisons subject to the "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 135, nor to packages of foods, drugs, and cosmetics subject to the "Federal Food, Drug, and Cosmetic Act," nor to sections 3715.01 to 3715.72, inclusive, of the Revised Code.

Sec. 3716.03. The director of health shall:

(A) ~~Propose and submit regulations for adoption by the public health council, subject to sections 119.01 to 119.13, inclusive, Adopt rules in accordance with Chapter 119.~~ of the Revised Code; for the efficient enforcement of section 3716.02 of the Revised Code;

(B) Conduct examinations, inspections, and investigations for the purpose of establishing such regulations, through such officers of the department of health or the boards of health, as ~~he~~ the director delegates;

(C) Designate officers and employees to enter at reasonable times any factory, warehouse, or establishment in which hazardous substances are held, or to enter any vehicle being used to transport or hold such hazardous substance:

(1) For the purpose of determining the nature of such substances;

(2) To inspect or copy all records showing the movement of any such hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; provided, evidence obtained under this subdivision shall not be used in a criminal prosecution of the person from whom obtained;

(D) Inspect and sample, upon tender of reasonable price for such sample, at reasonable times and within reasonable limits and in a reasonable manner, finished hazardous substances in retail packages and labeling thereon in such factory, warehouse, establishment, or vehicle.

Sec. 3717.01. As used in this chapter:

(A) "Ohio uniform food safety code" means the food safety and related standards adopted under section 3717.05 of the Revised Code.

(B) "Food" means any raw, cooked, or processed edible substance used or intended for use in whole or in part for human consumption. "Food"

includes ice, water or any other beverage, food ingredients, and chewing gum.

(C) "Retail food establishment" means a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. Except when expressly provided otherwise, "retail food establishment" includes a mobile retail food establishment, seasonal retail food establishment, and temporary retail food establishment.

As used in this division:

(1) "Retail" means the sale of food to a person who is the ultimate consumer.

(2) "Prepared" means any action that affects a food, including receiving and maintaining it at the temperature at which it was received.

(D) "Seasonal retail food establishment" means a retail food establishment, other than a mobile retail food establishment, that is operated for not more than six months in a licensing period.

(E) "Temporary retail food establishment" means a retail food establishment that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.23 of the Revised Code.

(F) "Food service operation" means a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used in this division, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

Except when expressly provided otherwise, "food service operation" includes a catering food service operation, food delivery sales operation, mobile food service operation, seasonal food service operation, temporary food service operation, and vending machine location.

(G) "Catering food service operation" means a food service operation where food is prepared for serving at a function or event held at an off-premises site, for a charge determined on a per-function or per-event basis.

(H) "Food delivery sales operation" means a food service operation from which individual portions of food are ordered by a customer, prepared at another food service operation or a retail food establishment, and delivered to the customer by a person other than an employee of the food service operation or retail food establishment that prepared the food.

(I) "Mobile food service operation" means a food service operation that

is operated from a movable vehicle, portable structure, or watercraft and that routinely changes location, except that if the operation remains at any one location for more than forty consecutive days, the operation is no longer a mobile food service operation. "Mobile food service operation" includes a food service operation that does not remain at any one location for more than forty consecutive days and serves, in a manner consistent with division (F) of this section, only frozen desserts; beverages, nuts, popcorn, candy, or similar confections; bakery products identified in section 911.01 of the Revised Code; or any combination of those items.

(J) "Seasonal food service operation" means a food service operation, other than a mobile food service operation, that is operated for not more than six months in a licensing period.

(K) "Temporary food service operation" means a food service operation that is operated at an event for not more than five consecutive days, except when operated for more than five consecutive days pursuant to division (E)(2) of section 3717.43 of the Revised Code.

(L) "Vending machine location" means an area or room where one or more vending machines are installed and operated, except that if the machines within an area are separated by more than one hundred fifty feet, each area separated by that distance constitutes a separate vending machine location. As used in this division, "vending machine" means a self-service device that automatically dispenses on the insertion of currency, tokens, or similar means a predetermined unit serving of food, either in bulk or in package, without having to be replenished after each use.

(M) "Board of health" means a board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

(N) "Government entity" means this state, a political subdivision of this state, another state, or a political subdivision or other local government body of another state.

(O) "Licensor" means one of the following:

(1) A board of health approved under section 3717.11 of the Revised Code;

(2) The director of agriculture acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of retail food establishments;

(3) The director of health acting pursuant to section 3717.11 of the Revised Code with respect to the licensing of food service operations.

(P) "Licensing period" means the first day of March to the last day of February of the next succeeding year.

(Q) "Mobile retail food establishment" means a retail food

establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than forty consecutive days, the establishment is no longer a mobile retail food establishment.

(R) "Unprocessed," when used with respect to fruits and vegetables, means that the fruits and vegetables are not processed beyond merely rough trimming and rinsing.

(S) "Cottage food production operation" has the same meaning as in division (A)(20)(19) of section 3715.01 of the Revised Code.

Sec. 3717.04. The director of agriculture, ~~the public health council~~, and the director of health have the exclusive power in this state to adopt rules regarding retail food establishments and food service operations. The rules adopted under this chapter shall be applied uniformly throughout this state.

All rules adopted under this chapter shall be adopted in accordance with Chapter 119. of the Revised Code. Subject to the approval of the joint committee on agency rule review, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to food safety.

Sec. 3717.05. (A) The director of agriculture and the ~~public council~~ director of health shall adopt rules establishing standards for safe food handling and sanitation in retail food establishments and food service operations. The rules shall be compiled as the Ohio uniform food safety code, which shall be used by the licensors of retail food establishments and food service operations in ensuring the safe handling of food in this state. All scientific provisions of the Ohio uniform food safety code that are relevant to both retail food establishments and food service operations shall be adopted by the director of agriculture and the ~~public council~~ director of health with each other's concurrence.

The Ohio uniform food safety code shall include the following:

- (1) Criteria for sanitation in retail food establishments and food service operations;
- (2) Criteria for equipment in retail food establishments and food service operations;
- (3) Criteria for reviewing the facility layout and equipment specifications of retail food establishments and food service operations;
- (4) A definition of "potentially hazardous" as it pertains to food in retail food establishments and to food in food service operations;
- (5) Criteria to be used in evaluating the primary business of a person or government entity for purposes of determining whether the person or entity

should be licensed as a retail food establishment or food service operation.

(B)(1) Except as provided in division (B)(2) of this section, if a model food code is established by the United States food and drug administration, the Ohio uniform food safety code shall be based on the most current version of the food and drug administration's model food code. If the food and drug administration adopts, modifies, or rescinds a provision in the model food code, not later than twelve months after the administration's action, the director of agriculture and ~~public~~ director of health ~~council~~ shall adopt, amend, or rescind provisions in the Ohio uniform food safety code to ensure that it continues to conform with the model food code.

(2) The Ohio uniform food safety code may contain or omit provisions that do not correspond to the food and drug administration's model food code if the director of agriculture or the ~~public~~ director of health ~~council~~, with each other's concurrence, determines either of the following:

(a) That rules can be adopted under this chapter that provide protection at least as effective as that which would be provided by basing the rules on the model food code;

(b) That local conditions warrant the adoption of standards that are different from the model food code.

Sec. 3717.07. (A) For purposes of establishing a licensing fee under sections 3717.25 and 3717.45 of the Revised Code, the director of agriculture and the ~~public~~ director of health ~~council~~ shall adopt rules establishing uniform methodologies for use in calculating the costs of licensing retail food establishments in the categories specified by the director of agriculture and the costs of licensing food service operations in the categories specified by the ~~council~~ director of health. In adopting the rules, the director of agriculture and the ~~public~~ director of health ~~council~~ shall consider any recommendations received from advisory boards or other entities representing the interests of retail food establishments and food service operations.

(B) The rules shall include provisions that do all of the following:

(1) Provide for calculations to be made according to fiscal years rather than licensing periods;

(2) Limit the direct costs that may be attributed to the use of sanitarians by establishing appropriate statewide averages that may not be exceeded;

(3) Limit the indirect costs that may be included in the calculation of fees to an amount that does not exceed thirty per cent of the cost of the licensing program;

(4) Provide for a proportionate reduction in the fees to be charged if a licensor included anticipated costs in the immediately preceding calculation

of licensing fees and the total amount of the anticipated costs was not incurred;

(5) Provide for a proportionate reduction in the fees to be charged if it is discovered through an audit by the auditor of state or through any other means that the licensor has charged or is charging a licensing fee that exceeds the amount that should have been charged;

(6) Provide for a twenty per cent reduction in the fees to be charged when the reduction is imposed as a penalty under division (C) of section 3717.071 of the Revised Code;

(7) With regard to any fees charged for licensing vending machine locations, the rules shall prohibit a licensor from increasing fees by a percentage of increase over the previous year's fee that exceeds the percentage of increase in the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics, for the immediately preceding calendar year.

Sec. 3717.45. (A) A licensor may charge fees for issuing and renewing food service operation licenses. Any licensing fee charged shall be used solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Any licensing fee charged under this section shall be based on the licensor's costs of regulating food service operations, as determined according to the uniform methodologies established under section 3717.07 of the Revised Code. If the licensor is a board of health, a fee may be disapproved by the district advisory council in the case of a general health district or the legislative authority of the city in the case of a city health district. A disapproved fee shall not be charged by the board of health.

Except when a licensing fee is established as an emergency measure, the licensor shall hold a public hearing regarding the proposed fee. At least twenty days prior to holding a public hearing, the licensor shall give written notice of the hearing to each person or government entity holding a food service operation license that may be affected by the proposed fee. The notice shall be mailed to the last known address of the licensee and shall specify the date, time, and place of the hearing and the amount of the proposed fee. On request, the licensor shall provide the completed uniform methodology used in the calculation of the licensor's costs and the proposed fee.

(B) In addition to licensing fees, a licensor may charge fees for the following:

(1) Review of facility layout and equipment specifications pertaining to

food service operations, other than mobile and temporary food service operations, or similar reviews conducted for vending machine locations;

(2) Any necessary collection and bacteriological examination of samples from food service operations, or similar services specified in rules adopted under this chapter by the public director of health council;

(3) Attendance at a course of study offered by the licensor in food protection as it pertains to food service operations, if the course is approved under section 3717.09 of the Revised Code.

(C)(1) The ~~public health council~~ director may determine by rule an amount to be collected from applicants for food service operation licenses for use ~~by the director of health~~ in administering and enforcing the provisions of this chapter and the rules adopted under it applicable to food service operations. Licensors shall collect the amount prior to issuing an applicant's new or renewed license. If a licensing fee is charged under this section, the licensor shall collect the amount at the same time the fee is collected. Licensors are not required to provide notice or hold public hearings regarding amounts to be collected.

(2) A licensor shall certify the amount collected under division (C)(1) of this section and transmit the amount to the treasurer of state according to the following schedule:

(a) For amounts received by the licensor on or after the first day of January but not later than the thirty-first day of March, transmit the amounts not later than the fifteenth day of May;

(b) For amounts received by the licensor on or after the first day of April but not later than the thirtieth day of June, transmit the amounts not later than the fifteenth day of August;

(c) For amounts received by the licensor on or after the first day of July but not later than the thirtieth day of September, transmit the amounts not later than the fifteenth day of November;

(d) For amounts received by the licensor on or after the first day of October but not later than the thirty-first day of December, transmit the amounts not later than the fifteenth day of February of the following year.

(3) All amounts received under division (C)(2) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code. The director shall use the amounts solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

~~(4) The director may submit recommendations to the public health council regarding the amounts collected under division (C)(1) of this section. When making recommendations, the director shall submit a report~~

~~stating the current and projected expenses of administering and enforcing the provisions of this chapter and the rules adopted under it applicable to food service operations and the total of all amounts that have been deposited in the general operations fund pursuant to division (C)(3) of this section. The director may include in the report any recommendations for modifying the department's administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.~~

Sec. 3717.51. Pursuant to section 3717.04 of the Revised Code, the public director of health council shall adopt rules regarding food service operations, as follows:

(A) Licensing categories for food service operations and licensing requirements for each category;

(B) Standards and procedures, including a schedule of frequency, for conducting inspections of food service operations;

(C) Standards and procedures for conducting investigations of complaints pertaining to food service operations;

(D) Procedures to be used by the director of health in approving courses of study for persons seeking certification in food protection, standards that must be met to receive and maintain the director's approval, and procedures for withdrawing the director's approval of a course if the standards for approval are no longer being met;

(E) Standards for the provision of assistance to choking victims;

(F) Any other matter the council director considers relevant to the administration and enforcement of the provisions of this chapter applicable to food service operations.

Sec. 3718.02. (A) The public director of health council, in accordance with Chapter 119. of the Revised Code, shall adopt, and subsequently may amend and rescind, rules of general application throughout the state to administer this chapter. Rules adopted under division (A) of this section shall do at least all of the following:

(1) Require that the appropriate board of health approve or disapprove the installation, operation, and alteration of a sewage treatment system if it is not connected to a sanitary sewerage system;

(2) Require a board of health, or other person as established by rule, to conduct a site evaluation for any proposed installation of a sewage treatment system;

(3) Prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of sewage treatment systems that may be used in this state and for the progressive or incremental alteration or repair of an existing sewage treatment system or the

progressive or incremental installation of a new system to replace an existing sewage treatment system. The rules shall be adopted so as to establish a preference for the repair of an existing sewage treatment system, when technically and economically feasible, rather than its replacement with a new system. The standards shall include at a minimum all of the following:

(a) Soil absorption specifications and vertical separation distances.

(i) Soil absorption specifications established in rules shall include standards regarding the sizing of sewage treatment systems in use in the state.

(ii) In establishing soil absorption specifications and vertical separation distances, the rules shall identify those soil conditions that present a low or moderate risk of inadequate treatment or dispersal of sewage from sewage treatment systems. For low and moderate risk conditions, the required vertical separation distance shall not exceed eighteen inches except as authorized pursuant to rules adopted under divisions (A)(3)(a)(iii) and (iv) of this section.

In addition, the rules shall identify those soil conditions that present a high risk of inadequate treatment or dispersal of sewage. For such high risk conditions, the vertical separation distance shall be set at a depth from twenty-four to thirty-six inches and shall not be lowered unless a reduction of vertical separation is granted in accordance with rules adopted under division (A)(3)(a)(iii) of this section.

(iii) The rules shall establish options to be utilized by a board of health when approving the reductions of or compliance with vertical separation distances that are established in rules adopted under division (A)(3)(a)(ii) of this section. The options for a board of health in providing such approval shall include, but not be limited to: the use where deemed appropriate for a particular site of subsurface interceptor drains, perimeter drains, or engineered drainage; pretreatment of sewage; or soil elevation.

(iv) The rules shall provide that a board of health may petition the director to increase the vertical separation distances required for sewage treatment systems in the applicable health district or a portion of the district when conditions present a high risk of inadequate treatment or dispersal of sewage. The rules also shall provide that the director may approve such a request upon a demonstration by the board of health that unusual or unique local conditions relating to terrain, bedrock, water table, soil fragments, or soil textures require the establishment of greater vertical separation distances within the jurisdiction of the board of health or a portion thereof. If, under the rules, the director of health approves a greater vertical

separation distance, a board of health still may approve a reduction of that vertical separation distance for an individual sewage treatment system pursuant to rules adopted under division (A)(3)(a)(iii) of this section. Further, if, under the rules, the director approves a greater vertical separation distance, a person who is denied permission by a board of health to install or replace a sewage treatment system as a result of the director's approval may request a hearing in accordance with section 3718.11 of the Revised Code.

(b) Specifications for the quality of treated sewage effluent from household sewage treatment systems that is applied to soil on the property where a household sewage treatment system is located. The specifications established in the rules for the quality of effluent from discharging systems shall comply with discharge requirements imposed by the national pollutant discharge elimination system permit program established under section 6111.03 of the Revised Code and rules adopted under it.

(c) Requirements for the reasonable maintenance of a system according to maintenance requirements approved by the director of health as recommended by the sewage treatment system technical advisory committee or according to accepted standards and practices established in rules, as applicable. The requirements may include standards for service contracts or other arrangements that assure regular maintenance and upkeep of the system. In determining the reasonableness of a maintenance requirement, the director shall consider a manufacturer's maintenance requirements as well as all other maintenance alternatives.

(4) Prescribe procedures for notification to boards of health of the approval of a sewage treatment system or components of a system by the director of health under section 3718.04 of the Revised Code;

(5) Prescribe criteria and procedures under which boards of health shall issue installation permits, operation permits, and alteration permits for sewage treatment systems. The rules shall require as a condition of an installation permit that the installer of a system must warrant that the system was installed in accordance with all applicable rules and design requirements. In addition, the rules shall require a board of health, not later than sixty days after the issuance of an installation, operation, or alteration permit, to notify the director that the permit was issued. The rules shall require the notification to be in a format prescribed by the director and to include information related to the issuance of the permit. With the assistance of the department of health, a board of health, to the extent practicable, shall computerize the process of the issuance of permits for sewage treatment systems.

(6) Require a board of health to inspect a sewage treatment system not later than twelve months after its installation to ensure that the system is operating properly. The rules shall require a board of health, not later than sixty days after the inspection, to certify to the director on a form provided by the director that the inspection was performed.

(7) Require each board of health to develop a program for the administration of maintenance requirements established in rules adopted under division (A)(3)(c) of this section. The rules shall include requirements and procedures under which a person may demonstrate the required maintenance of a system in lieu of having an inspection conducted when an inspection otherwise is required. The rules shall require a board of health to provide written notice to a person that is demonstrating maintenance of a system in lieu of an inspection that if proof of the required maintenance of the system is not provided as required by rules, the system is subject to inspection by the board and the reasonable cost of the inspection must be paid by the person. The rules shall authorize a board of health to inspect any sewage treatment system if there is a good-faith complaint regarding the system, there is probable cause for the inspection, or proof of the required maintenance of the system has not been provided as required by rules. In addition, the rules shall authorize a board of health to inspect a sewage treatment system without prior notice in any instance in which the board has probable cause to believe that the system is endangering or threatening to endanger public health. The rules shall require that the reasonable costs for sewage effluent testing or evaluation be paid by the owner of a sewage treatment system that is being investigated. Further, the rules shall establish a methodology for determining the reasonable costs of an inspection in accordance with section 3709.09 of the Revised Code. The rules shall allow, but shall not require, a board of health to continue an inspection program that was established by the board prior to the effective date of the rules, provided that the program authorizes a person to demonstrate the required maintenance of a system in lieu of an inspection.

(8) Require a board of health to register installers, service providers, and septage haulers that perform work within the health district; prescribe criteria and procedures for the registration; and prescribe criteria for a demonstration of competency as a part of the registration. The rules shall establish uniform statewide bonding requirements or other financial security requirements for installers, service providers, and septage haulers as a condition of registration within any health district. The rules shall establish a methodology by which the required amount of a bond or other security may be calculated for each installer, service provider, and septage hauler. The

methodology, at a minimum, shall consider the number of systems installed or serviced and the type of system installed or serviced by an installer, service provider, or septage hauler on an annual basis. The rules shall provide that no board of health shall require an additional or different bond or security requirement as a condition of registration beyond the bonding and security requirements established in the rules adopted under division (A)(8) of this section.

The rules shall establish a cost methodology for determining the fee for the registration of an installer, service provider, or septage hauler in any health district.

(9) Prescribe requirements for the collection, transportation, disposal, and land application of domestic septage in this state from a sewage treatment system;

(10) Require boards of health to maintain records that are determined necessary to ascertain compliance with this chapter and the rules adopted under it;

(11) Require the manufacturer of a sewage treatment system that is authorized for use in this state in rules adopted under this section or that is approved for use in this state under section 3718.04 of the Revised Code to provide instructions for the operation and maintenance of the system. The rules shall provide that a board of health may require a copy of a manufacturer's instructions for the operation and maintenance of a system to be filed with the board prior to the installation and use of the system in the health district in which the board has jurisdiction. In addition, the rules shall require a board of health and a manufacturer to provide a copy of the operation and maintenance instructions, if available, when a board of health or a manufacturer receives a written request for instructions.

(12) Prescribe criteria for the provision of written evidence of compliance with rules pertaining to sewage treatment for purposes of sections 711.05 and 711.10 of the Revised Code;

(13) Pursuant to divisions (A)(1) and (3) of this section, prescribe standards for the siting, design, installation, operation, monitoring, maintenance, and abandonment of small flow on-site sewage treatment systems that may be used in this state;

(14) Prescribe minimum criteria and procedures under which boards of health may establish household sewage treatment district management programs for the purpose of providing a responsive approach toward preventing or solving sewage treatment problems resulting from household sewage treatment systems within the districts established under the program. For purposes of division (A)(14) of this section, a board of health may enter

into a contract with any entity to administer a household sewage treatment district management program.

(15) Prescribe standards for the use of subsurface interceptor drains, perimeter drains, and engineered drainage to remove or divert any subsurface water from an area to be used for soil absorption of sewage in the soil of a sewage treatment system;

(16) Prescribe standards for the inspection of septage hauling truck tanks by boards of health, including, but not limited to, tank seal safety specifications;

(17) Establish standards and testing methods to ensure that all septic tanks, other disposal component tanks, dosing tanks, pump vaults, household sewage treatment disposal system holding tanks and privy vaults, or other applicable sewage disposal system components manufactured after ~~the effective date of this section~~ September 17, 2010, and used in this state are watertight and structurally sound;

(18) Require a board of health to give notice and an opportunity for a hearing, pursuant to section 3718.11 of the Revised Code, to an affected property owner regarding any of the following:

(a) The denial of an installation, operation, or alteration permit for a sewage treatment system;

(b) The imposition of a condition on the installation of a sewage treatment system;

(c) The required replacement of a sewage treatment system;

(d) Any other final order or decision of a board of health that is made under this chapter concerning which a property owner is claiming to be aggrieved or adversely affected.

The rules also shall establish procedures for giving such notice and for conducting the hearing required in rules adopted under division (A)(18) of this section.

(19) Prescribe standards for the regulation of gray water recycling systems;

(20) Prohibit a sewage treatment system from causing a public health nuisance;

(21) Define economic impact for purposes of division (B) of this section and section 3718.022 of the Revised Code.

The ~~council~~ director may adopt other rules under division (A) of this section that ~~it~~ the director determines are necessary to implement this chapter and to protect the public health and welfare.

At least sixty days prior to adopting a rule under division (A) of this section, the ~~council~~ director shall provide boards of health and any other

interested parties an opportunity to comment on the rule.

(B)(1) In accordance with section 3709.20 or 3709.21 of the Revised Code, as applicable, and subject to review by and approval of the director under division (C) of section 3718.05 of the Revised Code, a board of health may adopt rules necessary for the public health providing for more stringent standards than those established in rules ~~of the public health council~~ adopted by the director under division (A) of this section. In proposing or adopting the rules, a board of health shall consider and document the economic impact of the rules on property owners within the applicable health district.

(2) A board that intends to adopt rules shall notify the department of health of the proposed rules and submit a copy of the proposed rules and the documentation of the economic impact of the rules at least ninety days prior to the proposed date of adoption. The director shall approve or disapprove any such proposed rule within ninety days after receiving a copy of the proposed rule from the board of health.

(3) In reviewing a proposed rule, the director shall approve the rule if all of the following apply:

(a) The proposed rule is not in conflict with this chapter or rules adopted under it.

(b) The proposed rule is authorized by division (B) of this section.

(c) The proposed rule is no less stringent than rules adopted by the ~~public health council~~ director.

(d) Unless otherwise authorized by this chapter or rules adopted under it, the proposed rule does not require design changes to a sewage treatment system, or component thereof, that differ from a design authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section 3718.04 of the Revised Code.

(e) The proposed rule does not require operation or maintenance procedures for a sewage treatment system that conflict with operation or maintenance procedures authorized in rules adopted under division (A) of this section, including rules adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this section, or approved by the director under section 3718.04 of the Revised Code.

(4) If a board of health fails to submit a proposed rule to the director or fails to demonstrate that the board has considered the economic impact of the proposed rule, the rule shall have no force or effect and is not enforceable.

Sec. 3718.021. (A) A board of health may regulate the siting, design, installation, operation, monitoring, maintenance, and abandonment of small

flow on-site sewage treatment systems in accordance with rules adopted by the ~~public director of health council~~ under division (A)(13) of section 3718.02 of the Revised Code. If a board of health chooses to regulate small flow on-site sewage treatment systems, the board first shall send written notification to the director of health and the director of environmental protection.

(B) If a board of health chooses to regulate small flow on-site sewage treatment systems under division (A) of this section and later determines that it no longer wants to regulate those systems, the board shall notify the director of health and the director of environmental protection. Upon the receipt of the notification by the director of environmental protection, the board of health shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

(C) If after a survey conducted under section 3718.07 of the Revised Code the director of health finds that a board of health that has chosen to regulate small flow on-site sewage treatment systems is not complying with the rules adopted under division (A)(13) of section 3718.02 of the Revised Code, the director shall notify the director of environmental protection and the board of health. Upon receipt of the notification, the board shall cease regulating small flow on-site sewage treatment systems, and the environmental protection agency shall regulate those systems.

Sec. 3718.022. Notwithstanding any provision in this chapter to the contrary, in adopting rules under division (A) of section 3718.02 of the Revised Code, the ~~public director of health council~~ shall consider the economic impact of the rules on property owners, the state of available technology, and the nature and economics of the available ~~alternatives~~ alternatives.

Sec. 3718.05. The director of health shall do all of the following:

(A) Administer and enforce this chapter and the rules ~~of the public health council~~ adopted under it;

(B) Examine records of boards of health, in accordance with rules adopted by the ~~council~~ director, that are determined necessary to ascertain compliance with this chapter and rules adopted under it;

(C) Review and approve or disapprove rules proposed by boards of health under division (B) of section 3718.02 of the Revised Code. The director shall not disapprove a proposed rule unless the director determines that the proposed rule conflicts with this chapter or rules adopted under division (A) of section 3718.02 of the Revised Code ~~by the public health council~~ or fails to promote public health or environmental protection. If the

director disapproves a proposed rule, the director shall provide a written explanation of the director's disapproval to the board of health that proposed the rule.

(D) Survey boards of health as required by section 3718.07 of the Revised Code;

(E) Develop with the sewage treatment system technical advisory committee standards, guidelines, and protocols for use by the director in approving or disapproving a sewage treatment system under section 3718.04 of the Revised Code and an application form for use by applicants for that approval, including identification of the information that must be included with the form;

(F) Provide instructions on the operation and maintenance of a sewage treatment system. The director shall provide the operation and maintenance instructions on the department of health's web site. In addition, the director shall provide a copy of the operation and maintenance instructions when the director receives a written request for the instructions.

(G) Develop educational programs, in conjunction with boards of health, to educate owners of sewage treatment systems regarding the proper operation and maintenance of those systems.

Sec. 3718.06. (A)(1) A board of health shall establish fees in accordance with section 3709.09 of the Revised Code for the purpose of carrying out its duties under this chapter and rules adopted under it, including fees for installation permits, operation permits, and alteration permits issued by the board. All fees so established and collected by the board shall be deposited in a special fund of the district to be used exclusively by the board in carrying out those duties.

~~(2)(B)~~ In accordance with Chapter 119. of the Revised Code, the ~~public~~ director of health ~~council~~ may establish by rule a fee to be collected from applicants for installation permits and alteration permits issued under rules adopted under this chapter. The director of health shall use not more than seventy-five per cent of the proceeds from that fee for administering and enforcing this chapter and the rules adopted under it by the ~~council~~ director. The director shall use not less than twenty-five per cent of the proceeds from that fee to establish a program in cooperation with boards of health to fund installation and evaluation of sewage treatment system new technology pilot projects through grants or other agreements. In the selection of pilot projects, the director shall consult with the sewage treatment system technical advisory committee. A board of health shall collect and transmit the fee to the director pursuant to section 3709.092 of the Revised Code.

~~(B) The director may submit recommendations to the public health~~

~~council regarding the amount of the fee collected under division (A)(2) of this section for installation and alteration permits. When making the recommendations, the director shall submit a report stating the current and projected expenses of administering and enforcing this chapter and the rules adopted under it and of the sewage treatment system new technology pilot projects program established under this section and the total of all money that has been deposited to the credit of the general operations fund under division (A)(2) of this section. The director may include in the report any recommendations for modifying the requirements established under this chapter and the rules adopted under it by the council.~~

Sec. 3718.07. The director of health shall survey each city and general health district at least once every three years to determine whether there is substantial compliance with the requirements of this chapter pertaining to health districts and the applicable rules adopted by the ~~public health council~~ director under this chapter. Upon determining that there is substantial compliance, the director shall place the district on an approved list. The director may resurvey an approved district if it is determined by the director to be necessary and may remove from the list a district that is found not to be substantially complying with the requirements of this chapter pertaining to health districts and the applicable rules.

If the director determines that a district is not eligible to be placed on the approved list or to continue on the list after a resurvey, the director shall certify that determination to the board of health, and the director shall carry out the duties of the unapproved health district under this chapter and the applicable rules adopted under it within the district or shall contract with an approved health district to conduct those duties until the unapproved district is placed on or returned to the approved list. The director or the contracting district shall have within the unapproved district the authority to exercise powers and perform duties granted to or imposed on the board under this chapter and the applicable rules adopted under it.

Until the unapproved district is placed on or returned to the approved list, the director or the contracting district shall collect all fees payable to the board of health under this chapter and all such fees previously paid to the unapproved district that have not been expended or encumbered. The director shall deposit those fees in the state treasury to the credit of a special fund, which is hereby created, to be used by the director for the purpose of carrying out the duties of the unapproved health district under this chapter and the applicable rules adopted under it. A contracting district shall deposit those fees to the credit of its fund created under section 3718.06 of the Revised Code to be used by the district for the purpose of carrying out the

duties of the unapproved district under this chapter and the applicable rules adopted under it. The director or contracting district shall repay to the unapproved district any balance remaining in the applicable fund from all sources when the unapproved district is placed on or returned to the approved list by the director.

If a health district is removed from the approved list under this section and the board of health of the district is regulating small flow on-site sewage treatment systems in the district under section 3718.021 of the Revised Code, the director of environmental protection shall regulate those systems in that district in accordance with division (C) of that section.

Sec. 3718.09. (A) A board of health may issue, modify, suspend, or revoke enforcement orders to a registration or permit holder or other person directing the holder or person to abate a violation of this chapter, any rule adopted or order issued under it, or a condition of a registration or permit issued under it within a specified, reasonable time. If an order issued under this division is neglected or disregarded, the applicable board of health may proceed in accordance with section 3707.02 of the Revised Code.

(B) The health commissioner or the commissioner's designated representative, without prior notice or hearing and in accordance with the rules ~~of adopted by the public director of health council~~, may issue an emergency order requiring any action necessary to meet a public health emergency or to prevent or abate an imminent and substantial threat to surface water or ground water regarding domestic septage management or regarding a sewage treatment system that is being operated in a manner that does not comply with this chapter or rules adopted under it. A person to whom such an emergency order is issued immediately shall comply with the order. A person so ordered may apply to the issuer of the order for a hearing, which shall be held as soon as possible, but not later than twenty days after the issuer's receipt of the application for a hearing.

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

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

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

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

nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section ~~3702.522~~ 3702.521 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

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

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

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

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

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

(iv) ~~An adult care facility as defined in section 5119.70 of the Revised Code;~~

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

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

~~(vii)~~ (vi) 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;~~

~~(viii)~~ (vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

~~(ix)~~ (viii) 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;

~~(x)~~ (ix) A county home or district home that has never been licensed as a

residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

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

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

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

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

(c) Special procedures contributing to rehabilitation;

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

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

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

(i) Assisting residents with activities of daily living;

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

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

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

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

personal care services and skilled nursing care.

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

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

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

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

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

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

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

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

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

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

(E) Division (A)(1)(c)(~~ix~~)(viii) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking

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

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

Sec. 3721.011. (A) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility may do the following:

- (1) Provide the following skilled nursing care to its residents:
 - (a) Supervision of special diets;
 - (b) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;
 - (c) Subject to division (B)(1) of this section, administration of medication.
- (2) Subject to division (C) of this section, provide other skilled nursing care on a part-time, intermittent basis for not more than a total of one hundred twenty days in a twelve-month period;
- (3) Provide skilled nursing care for more than one hundred twenty days in a twelve-month period to a resident when the requirements of division (D) of this section are met.

A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section.

(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons

authorized by law to administer medication:

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;

(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(c) A medication aide certified under Chapter 4723. of the Revised Code;

(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:

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

(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

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

(C) Except as provided in division (D) of this section, a residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. In accordance with Chapter 119. of the Revised Code, the public director of health ~~council~~ shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The ~~council~~ director shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of job and family services for the medicaid program established under Chapter 5111. of

the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D)(1) A residential care facility may admit or retain an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician;

(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care;

(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code.

(2) The agreement required by division (D)(1) of this section shall include all of the following provisions:

(a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the individual's needs can be met at the facility;

(b) That the individual will be retained in the facility only if periodic redeterminations are made that the individual's needs are being met at the facility;

(c) That the redeterminations will be made according to a schedule specified in the agreement;

(d) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the individual's needs;

(e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine.

(E) Notwithstanding any other provision of this chapter, a residential

care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) As used in this section, "residential facility" means a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

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

~~(B)(C)~~ A single facility may be licensed both as a nursing home pursuant to this chapter and as ~~an adult care~~ a residential facility pursuant to ~~Chapter 5119. section 5119.22~~ of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as ~~an adult care~~ a residential facility.

~~(C)(D)~~ In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

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

be considered as another group.

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

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

~~(D)~~(E)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

- (a) For state fiscal year 2010, two hundred twenty dollars;
- (b) For state fiscal year 2011, two hundred seventy dollars;
- (c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

~~(E)~~(F)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of

health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.03. (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

(B) The director of health shall enforce the provisions of sections 3721.01 to 3721.13 and 3721.99 of the Revised Code and may issue orders to secure compliance with the provisions of these sections and the rules adopted under them. The director may hold hearings, issue subpoenas, compel testimony, and make adjudications.

The director may issue an order revoking a license in the event the director finds, upon hearing or opportunity afforded pursuant to Chapter 119. of the Revised Code, that any of the following apply to a person, county home, or district home licensed under section 3721.07 of the Revised Code:

- (1) Has violated any of the provisions of Chapter 3721. of the Revised Code or rules adopted by the ~~public health council~~ director under it;
- (2) Has violated any order issued by the director;
- (3) Is not, or any of its principals are not suitable, morally or financially to operate such an institution;
- (4) Is not furnishing humane, kind, and adequate treatment and care;
- (5) Has had a long-standing pattern of violations of this chapter or the rules adopted under it that has caused physical, emotional, mental, or psychosocial harm to one or more residents.

Upon the issuance of any order of revocation, the person whose license is revoked, or the county home or district home that has its license revoked, may appeal in accordance with Chapter 119. of the Revised Code.

(C) Once the director notifies a person, county home, or district home licensed to operate a home that the license may be revoked or issues any order under this section, the person, county home, or district home shall not assign or transfer to another person or entity the right to operate the home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person, county home, or district home that the prohibition has been lifted.

If a license is revoked under this section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or

entity is void.

On revocation of a license, the former licensee shall take all necessary steps to cease operation of the home.

The director of health shall not accept a certificate of need application under section 3702.52 of the Revised Code regarding a home if the license to operate the home has been revoked under this section.

Sec. 3721.032. The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the ~~public~~ director of health ~~council~~ are empowered to adopt. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.

Sec. 3721.04. (A) The ~~public~~ director of health ~~council~~ shall adopt and publish rules governing the operation of homes, which shall have uniform application throughout the state, and shall prescribe standards for homes with respect to, but not limited to, the following matters:

(1) The minimum space requirements for occupants and equipping of the buildings in which homes are housed so as to ensure healthful, safe, sanitary, and comfortable conditions for all residents, so long as they are not inconsistent with Chapters 3781. and 3791. of the Revised Code or with any rules adopted by the board of building standards and by the state fire marshal;

(2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term care facilities, as defined in that section;

(3) The medical, rehabilitative, and recreational services to be provided by each class of home;

(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;

(5) The personal and social services to be provided by each class of home;

(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;

(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;

(8) The standards and procedures to be followed by residential care

facilities in admitting and retaining a resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;

(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.

(B) The ~~public health council~~ director may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.

(C) The following apply to the ~~public health council~~ director when adopting rules under division (A)(1) of this section regarding the equipping of the buildings in which homes are housed:

(1) The rules shall not require that each resident sleeping room, or a percentage of the resident sleeping rooms, have a bathtub or shower that is directly accessible from or exclusively for the room.

(2) The rules shall require that the privacy and dignity of residents be protected when the residents are transported to and from bathing facilities, prepare for bathing, and bathe.

(D) The following apply to the ~~public health council~~ director when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:

(1) When adopting rules applicable to residential care facilities, the ~~public health council~~ director shall take into consideration the effect that the following may have on the number of personnel needed:

(a) Provision of personal care services;

(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code;

(c) Provision of skilled nursing care to residents pursuant to division (D) of section 3721.011 of the Revised Code.

(2) When adopting rules applicable to nursing homes, the ~~public health council~~ director shall require each nursing home to do both of the following:

(a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner;

(b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident:

(i) Registered nurses, including registered nurses who perform administrative and supervisory duties;

(ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties;

(iii) Nurse aides.

(3) The rules prescribing qualifications of nurse aides used by long-term

care facilities, as those terms are defined in section 3721.21 of the Revised Code, shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under ~~sections~~ section 1819 and 1919 of the "Social Security Act," 49 101 Stat. 620 1330-160 (1935 1987), 42 U.S.C. ~~304~~ 1395i-3, as amended, and section 1919 of the "Social Security Act," 101 Stat. 1330-182 (1987), 42 U.S.C. 1396r, as amended.

(E) The following apply to the director when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in nursing homes or rules under division (A)(5) of this section regarding social services to be provided by nursing homes:

(1) The rules shall not prescribe the number of individuals licensed as social workers under Chapter 4757. of the Revised Code that a nursing home with one hundred twenty or fewer beds must employ.

(2) The rules shall require each nursing home with more than one hundred twenty beds to employ on a full-time basis one individual licensed as a social worker under Chapter 4757. of the Revised Code.

(3) The rules shall require each nursing home to offer its residents medically related social services that assist the residents in attaining or maintaining their highest practicable physical, mental, and psychosocial well-being.

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

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

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

(C) The applicant has not had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code because of any act or omission that jeopardized a resident's health, welfare, or safety nor has the applicant had a long-standing pattern of violations of this chapter or rules adopted under it that caused physical, emotional, mental, or psychosocial harm to one or more residents.

(D) The buildings in which the home is housed have been approved by

the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code.

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

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

(G) The home does not maintain or contain:

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

(2) Facilities for providing therapeutic radiation;

(3) An emergency ward;

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

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

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

(I) The home is in compliance with sections 3721.28 and 3721.29 of the Revised Code.

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

If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked or the license of a county home or district home to operate as a residential care facility has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked, and a county home or district home that has its license as a residential care facility revoked other than under division (B)(5) of section 3721.03 of the Revised Code, for any reason other than

nonpayment of the license renewal fee or late fees shall not be issued a new license under this chapter until a period of one year following the date of revocation has elapsed.

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

Sec. 3721.071. The buildings in which a home is housed shall be equipped with both an automatic fire extinguishing system and fire alarm system. Such systems shall conform to standards set forth in the regulations of the board of building standards and the state fire marshal.

The time for compliance with the requirements imposed by this section shall be January 1, 1975, except that the date for compliance with the automatic fire extinguishing requirements is extended to January 1, 1976, provided the buildings of the home are otherwise in compliance with fire safety laws and regulations and:

(A) The home within thirty days after August 4, 1975, files a written plan with the state fire marshal's office that:

(1) Outlines the interim safety procedures which shall be carried out to reduce the possibility of a fire;

(2) Provides evidence that the home has entered into an agreement for a fire safety inspection to be conducted not less than monthly by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer;

(3) Provides verification that the home has entered into a valid contract for the installation of an automatic fire extinguishing system or fire alarm system, or both, as required to comply with this section;

(4) Includes a statement regarding the expected date for the completion of the fire extinguishing system or fire alarm system, or both.

(B) Inspections by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer are initiated no later than sixty days after August 4, 1975, and are conducted no less than monthly thereafter, and reports of the consultant, fire department, or fire prevention officer identifying existing hazards and recommended corrective actions are submitted to the state fire marshal, the division of ~~labor~~ industrial compliance in the department of commerce, and the department of health.

It is the express intent of the general assembly that the department of job and family services shall terminate payments under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, to those homes which do not comply with the requirements of this section for the

submission of a written fire safety plan and the deadline for entering into contracts for the installation of systems.

Sec. 3721.121. (A) As used in this section:

(1) "Adult day-care program" means a program operated pursuant to rules adopted by the ~~public~~ director of health ~~council~~ under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.

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

(3) "Criminal records check" ~~and "older adult" have~~ has the same ~~meanings meaning~~ as in section 109.572 of the Revised Code.

(4) "Home" means a home as defined in section 3721.10 of the Revised Code.

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

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check ~~with respect to~~ of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

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

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard

fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

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

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

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

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

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

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

(b) A home or adult day-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 home or program shall terminate the individual's employment unless the home or 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 home or program about the individual's criminal record.

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

(a) The home or 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 home or program the fee it pays under division (D)(1) of this section.

(E) The report of any 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 home or 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 that is owned or operated by the same entity that owns or operates the home or 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;

(6) The board of nursing for purposes of accepting and processing an application for a medication aide certificate issued under Chapter 4723. of the Revised Code.

(F) In accordance with section 3721.11 of the Revised Code, the director of health shall adopt rules to implement this section. The rules shall specify circumstances under which a home or adult day-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 home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, 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 home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or 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 home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or 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 home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or 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 home or adult day-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 home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults 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 home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

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

send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3721.13. (A) The rights of residents of a home shall include, but are not limited to, the following:

(1) The right to a safe and clean living environment pursuant to the medicare and medicaid programs and applicable state laws and ~~regulations prescribed rules adopted~~ by the ~~public~~ director of health ~~council~~;

(2) The right to be free from physical, verbal, mental, and emotional abuse and to be treated at all times with courtesy, respect, and full recognition of dignity and individuality;

(3) Upon admission and thereafter, the right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care consistent with the program for which the resident contracted. This care shall be provided without regard to considerations such as race, color, religion, national origin, age, or source of payment for care.

(4) The right to have all reasonable requests and inquiries responded to promptly;

(5) The right to have clothes and bed sheets changed as the need arises, to ensure the resident's comfort or sanitation;

(6) The right to obtain from the home, upon request, the name and any specialty of any physician or other person responsible for the resident's care or for the coordination of care;

(7) The right, upon request, to be assigned, within the capacity of the home to make the assignment, to the staff physician of the resident's choice, and the right, in accordance with the rules and written policies and procedures of the home, to select as the attending physician a physician who is not on the staff of the home. If the cost of a physician's services is to be met under a federally supported program, the physician shall meet the federal laws and regulations governing such services.

(8) The right to participate in decisions that affect the resident's life, including the right to communicate with the physician and employees of the home in planning the resident's treatment or care and to obtain from the attending physician complete and current information concerning medical condition, prognosis, and treatment plan, in terms the resident can reasonably be expected to understand; the right of access to all information in the resident's medical record; and the right to give or withhold informed consent for treatment after the consequences of that choice have been carefully explained. When the attending physician finds that it is not

medically advisable to give the information to the resident, the information shall be made available to the resident's sponsor on the resident's behalf, if the sponsor has a legal interest or is authorized by the resident to receive the information. The home is not liable for a violation of this division if the violation is found to be the result of an act or omission on the part of a physician selected by the resident who is not otherwise affiliated with the home.

(9) The right to withhold payment for physician visitation if the physician did not visit the resident;

(10) The right to confidential treatment of personal and medical records, and the right to approve or refuse the release of these records to any individual outside the home, except in case of transfer to another home, hospital, or health care system, as required by law or rule, or as required by a third-party payment contract;

(11) The right to privacy during medical examination or treatment and in the care of personal or bodily needs;

(12) The right to refuse, without jeopardizing access to appropriate medical care, to serve as a medical research subject;

(13) The right to be free from physical or chemical restraints or prolonged isolation except to the minimum extent necessary to protect the resident from injury to self, others, or to property and except as authorized in writing by the attending physician for a specified and limited period of time and documented in the resident's medical record. Prior to authorizing the use of a physical or chemical restraint on any resident, the attending physician shall make a personal examination of the resident and an individualized determination of the need to use the restraint on that resident.

Physical or chemical restraints or isolation may be used in an emergency situation without authorization of the attending physician only to protect the resident from injury to self or others. Use of the physical or chemical restraints or isolation shall not be continued for more than twelve hours after the onset of the emergency without personal examination and authorization by the attending physician. The attending physician or a staff physician may authorize continued use of physical or chemical restraints for a period not to exceed thirty days, and at the end of this period and any subsequent period may extend the authorization for an additional period of not more than thirty days. The use of physical or chemical restraints shall not be continued without a personal examination of the resident and the written authorization of the attending physician stating the reasons for continuing the restraint.

If physical or chemical restraints are used under this division, the home

shall ensure that the restrained resident receives a proper diet. In no event shall physical or chemical restraints or isolation be used for punishment, incentive, or convenience.

(14) The right to the pharmacist of the resident's choice and the right to receive pharmaceutical supplies and services at reasonable prices not exceeding applicable and normally accepted prices for comparably packaged pharmaceutical supplies and services within the community;

(15) The right to exercise all civil rights, unless the resident has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code and has not been restored to legal capacity, as well as the right to the cooperation of the home's administrator in making arrangements for the exercise of the right to vote;

(16) The right of access to opportunities that enable the resident, at the resident's own expense or at the expense of a third-party payer, to achieve the resident's fullest potential, including educational, vocational, social, recreational, and habilitation programs;

(17) The right to consume a reasonable amount of alcoholic beverages at the resident's own expense, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies;

(18) The right to use tobacco at the resident's own expense under the home's safety rules and under applicable laws and rules of the state, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies;

(19) The right to retire and rise in accordance with the resident's reasonable requests, if the resident does not disturb others or the posted meal schedules and upon the home's request remains in a supervised area, unless not medically advisable as documented by the attending physician;

(20) The right to observe religious obligations and participate in religious activities; the right to maintain individual and cultural identity; and the right to meet with and participate in activities of social and community groups at the resident's or the group's initiative;

(21) The right upon reasonable request to private and unrestricted communications with the resident's family, social worker, and any other person, unless not medically advisable as documented in the resident's medical record by the attending physician, except that communications with public officials or with the resident's attorney or physician shall not be restricted. Private and unrestricted communications shall include, but are not limited to, the right to:

(a) Receive, send, and mail sealed, unopened correspondence;

(b) Reasonable access to a telephone for private communications;

(c) Private visits at any reasonable hour.

(22) The right to assured privacy for visits by the spouse, or if both are residents of the same home, the right to share a room within the capacity of the home, unless not medically advisable as documented in the resident's medical record by the attending physician;

(23) The right upon reasonable request to have room doors closed and to have them not opened without knocking, except in the case of an emergency or unless not medically advisable as documented in the resident's medical record by the attending physician;

(24) The right to retain and use personal clothing and a reasonable amount of possessions, in a reasonably secure manner, unless to do so would infringe on the rights of other residents or would not be medically advisable as documented in the resident's medical record by the attending physician;

(25) The right to be fully informed, prior to or at the time of admission and during the resident's stay, in writing, of the basic rate charged by the home, of services available in the home, and of any additional charges related to such services, including charges for services not covered under the medicare or medicaid program. The basic rate shall not be changed unless thirty days' notice is given to the resident or, if the resident is unable to understand this information, to the resident's sponsor.

(26) The right of the resident and person paying for the care to examine and receive a bill at least monthly for the resident's care from the home that itemizes charges not included in the basic rates;

(27)(a) The right to be free from financial exploitation;

(b) The right to manage the resident's own personal financial affairs, or, if the resident has delegated this responsibility in writing to the home, to receive upon written request at least a quarterly accounting statement of financial transactions made on the resident's behalf. The statement shall include:

(i) A complete record of all funds, personal property, or possessions of a resident from any source whatsoever, that have been deposited for safekeeping with the home for use by the resident or the resident's sponsor;

(ii) A listing of all deposits and withdrawals transacted, which shall be substantiated by receipts which shall be available for inspection and copying by the resident or sponsor.

(28) The right of the resident to be allowed unrestricted access to the resident's property on deposit at reasonable hours, unless requests for access to property on deposit are so persistent, continuous, and unreasonable that

they constitute a nuisance;

(29) The right to receive reasonable notice before the resident's room or roommate is changed, including an explanation of the reason for either change.

(30) The right not to be transferred or discharged from the home unless the transfer is necessary because of one of the following:

(a) The welfare and needs of the resident cannot be met in the home.

(b) The resident's health has improved sufficiently so that the resident no longer needs the services provided by the home.

(c) The safety of individuals in the home is endangered.

(d) The health of individuals in the home would otherwise be endangered.

(e) The resident has failed, after reasonable and appropriate notice, to pay or to have the medicare or medicaid program pay on the resident's behalf, for the care provided by the home. A resident shall not be considered to have failed to have the resident's care paid for if the resident has applied for medicaid, unless both of the following are the case:

(i) The resident's application, or a substantially similar previous application, has been denied by the county department of job and family services.

(ii) If the resident appealed the denial pursuant to division (C) of section 5101.35 of the Revised Code, the director of job and family services has upheld the denial.

(f) The home's license has been revoked, the home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code, or the home otherwise ceases to operate.

(g) The resident is a recipient of medicaid, and the home's participation in the medicaid program is involuntarily terminated or denied.

(h) The resident is a beneficiary under the medicare program, and the home's participation in the medicare program is involuntarily terminated or denied.

(31) The right to voice grievances and recommend changes in policies and services to the home's staff, to employees of the department of health, or to other persons not associated with the operation of the home, of the resident's choice, free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to a residents' rights advocate, and the right to be a member of, to be active in, and to associate with persons who are active in organizations of relatives and friends of nursing home residents and other organizations engaged in assisting residents.

(32) The right to have any significant change in the resident's health

status reported to the resident's sponsor. As soon as such a change is known to the home's staff, the home shall make a reasonable effort to notify the sponsor within twelve hours.

(B) A sponsor may act on a resident's behalf to assure that the home does not deny the residents' rights under sections 3721.10 to 3721.17 of the Revised Code.

(C) Any attempted waiver of the rights listed in division (A) of this section is void.

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the Revised Code:

(A) "Long-term care facility" means either of the following:

(1) A nursing home as defined in section 3721.01 of the Revised Code; ~~other than a nursing home or part of a nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~

(2) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act."

(B) "Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

(C) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a resident by physical contact with the resident or by use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in amounts that preclude habilitation and treatment.

(D) "Neglect" means recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident. "Neglect" does not include allowing a resident, at the resident's option, to receive only treatment by spiritual means through prayer in accordance with the tenets of a recognized religious denomination.

(E) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of a resident by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.

(F) "Resident" includes a resident, patient, former resident or patient, or deceased resident or patient of a long-term care facility or a residential care facility.

(G) "Physical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(H) "Chemical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(I) "Nursing and nursing-related services" means the personal care services and other services not constituting skilled nursing care that are specified in rules the ~~public~~ director of health ~~council~~ shall adopt in accordance with Chapter 119. of the Revised Code.

(J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(K)(1) Except as provided in division (K)(2) of this section, "nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation.

(2) "Nurse aide" does not include either of the following:

(a) A licensed health professional practicing within the scope of the professional's license;

(b) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution.

(L) "Licensed health professional" means all of the following:

(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;

(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;

(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

- (9) An optometrist licensed under Chapter 4725. of the Revised Code;
- (10) A pharmacist licensed under Chapter 4729. of the Revised Code;
- (11) A psychologist licensed under Chapter 4732. of the Revised Code;
- (12) A chiropractor licensed under Chapter 4734. of the Revised Code;
- (13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;
- (14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.

(M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.

(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.

(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.

Sec. 3721.28. (A)(1) Each nurse aide used by a long-term care facility on a full-time, temporary, per diem, or other basis on July 1, 1989, shall be provided by the facility a competency evaluation program approved by the director of health under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section. Each long-term care facility using a nurse aide on July 1, 1989, shall provide the nurse aide the preparation necessary to complete the competency evaluation program by January 1, 1990.

(2) Each nurse aide used by a long-term care facility on a full-time, temporary, per diem, or other basis on January 1, 1990, who either was not used by the facility on July 1, 1989, or was used by the facility on July 1, 1989, but had not successfully completed a competency evaluation program by January 1, 1990, shall be provided by the facility a competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section. Each long-term care facility using a nurse aide described in division (A)(2) of this section shall provide the nurse aide the preparation necessary to complete the competency evaluation program by October 1, 1990, and shall assist the nurse aide in registering for the

program.

(B) Effective June 1, 1990, no long-term care facility shall use an individual as a nurse aide for more than four months unless the individual is competent to provide the services ~~he~~ the individual is to provide, the facility has received from the nurse aide registry established under section 3721.32 of the Revised Code the information concerning the individual provided through the registry, and one of the following is the case:

(1) The individual was used by a facility as a nurse aide on a full-time, temporary, per diem, or other basis at any time during the period commencing July 1, 1989, and ending January 1, 1990, and successfully completed, not later than October 1, 1990, a competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section.

(2) The individual has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section or has met the conditions specified in division (F) of this section and, in addition, if the training and competency evaluation program or the training, instruction, or education the individual completed in meeting the conditions specified in division (F) of this section was conducted by or in a long-term care facility, or if the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, the individual has successfully completed a competency evaluation program conducted by the director.

(3) Prior to July 1, 1989, if the long-term care facility is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or prior to January 1, 1990, if the facility is not so certified, the individual completed a program that the director determines included a competency evaluation component no less stringent than the competency evaluation programs approved by ~~him~~ the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section, and was otherwise comparable to the training and competency evaluation programs being approved by the director under division (A) of that section.

(4) The individual is listed in a nurse aide registry maintained by another state and that state certifies that its program for training and evaluation of competency of nurse aides complies with Titles XVIII and XIX of the "Social Security Act" and regulations adopted thereunder.

(5) Prior to July 1, 1989, the individual was found competent to serve as a nurse aide after the completion of a course of nurse aide training of at least one hundred hours' duration.

(6) The individual is enrolled in a prelicensure program of nursing education approved by the board of nursing or by an agency of another state that regulates nursing education, has provided the long-term care facility with a certificate from the program indicating that the individual has successfully completed the courses that teach basic nursing skills including infection control, safety and emergency procedures, and personal care, and has successfully completed a competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code.

(7) The individual has the equivalent of twelve months or more of full-time employment in the preceding five years as a hospital aide or orderly and has successfully completed a competency evaluation program conducted by the director under division (C) of section 3721.31 of the Revised Code.

(C) Effective June 1, 1990, no long-term care facility shall continue for longer than four months to use as a nurse aide an individual who previously met the requirements of division (B) of this section but since most recently doing so has not performed nursing and nursing-related services for monetary compensation for twenty-four consecutive months, unless the individual successfully completes additional training and competency evaluation by complying with divisions (C)(1) and (2) of this section:

(1) Doing one of the following:

(a) Successfully completing a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section;

(b) Successfully completing a training and competency evaluation program described in division (B)(4) of this section;

(c) Meeting the requirements specified in division (B)(6) or (7) of this section.

(2) If the training and competency evaluation program completed under division (C)(1)(a) of this section was conducted by or in a long-term care facility, or if the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, successfully completing a competency evaluation program conducted by the director.

(D)(1) The four-month periods provided for in divisions (B) and (C) of this section include any time, on or after June 1, 1990, that an individual is used as a nurse aide on a full-time, temporary, per diem, or any other basis

by the facility or any other long-term care facility.

(2) During the four-month period provided for in division (B) of this section, during which a long-term care facility may, subject to division (E) of this section, use as a nurse aide an individual who does not have the qualifications specified in divisions (B)(1) to (7) of this section, a facility shall require the individual to comply with divisions (D)(2)(a) and (b) of this section:

(a) Participate in one of the following:

(i) If the individual has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code, and the program was conducted by or in a long-term care facility, or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, a competency evaluation program conducted by the director;

(ii) If the individual is enrolled in a prelicensure program of nursing education described in division (B)(6) of this section and has completed or is working toward completion of the courses described in that division, or the individual has the experience described in division (B)(7) of this section, a competency evaluation program conducted by the director;

(iii) A training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section.

(b) If the individual participates in or has successfully completed a training and competency evaluation program under division (D)(2)(a)(iii) of this section that is conducted by or in a long-term care facility, or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, ~~participate~~ participate in a competency evaluation program conducted by the director.

(3) During the four-month period provided for in division (C) of this section, during which a long-term care facility may, subject to division (E) of this section, use as a nurse aide an individual who does not have the qualifications specified in divisions (C)(1) and (2) of this section, a facility shall require the individual to comply with divisions (D)(3)(a) and (b) of this section:

(a) Participate in one of the following:

(i) If the individual has successfully completed a training and competency evaluation program approved by the director, and the program was conducted by or in a long-term care facility, or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, a competency evaluation program conducted by the director;

(ii) If the individual is enrolled in a prelicensure program of nursing education described in division (B)(6) of this section and has completed or is working toward completion of the courses described in that division, or the individual has the experience described in division (B)(7) of this section, a competency evaluation program conducted by the director;

(iii) A training and competency evaluation program approved or conducted by the director.

(b) If the individual participates in or has successfully completed a training and competency evaluation program under division (D)(3)(a)(iii) of this section that is conducted by or in a long-term care facility, or the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, participate in a competency evaluation program conducted by the director.

(E) A long-term care facility shall not permit an individual used by the facility as a nurse aide while participating in a training and competency evaluation program to provide nursing and nursing-related services unless both of the following are the case:

(1) The individual has completed the number of hours of training that ~~he~~ must ~~complete~~ be completed prior to providing services to residents as prescribed by rules that shall be adopted by the director in accordance with Chapter 119. of the Revised Code;

(2) The individual is under the personal supervision of a registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code.

(F) An individual shall be considered to have satisfied the requirement, under division (B)(2) of this section, of having successfully completed a training and competency evaluation program conducted or approved by the director, if the individual meets both of the following conditions:

(1) The individual, as of July 1, 1989, completed at least sixty hours divided between skills training and classroom instruction in the topic areas described in divisions (B)(1) to (8) of section 3721.30 of the Revised Code;

(2) The individual received, as of that date, at least the difference between seventy-five hours and the number of hours actually spent in training and competency evaluation in supervised practical nurse aide training or regular in-service nurse aide education.

(G) The ~~public health council~~ director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying persons, in addition to the director, who may establish competence of nurse aides under division (B)(5) of this section, and establishing criteria for determining whether an individual meets the conditions specified in division (F) of this section.

(H) The rules adopted pursuant to divisions (E)(1) and (G) of this

section shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act."

Sec. 3721.29. In addition to competency evaluation programs and training and competency evaluation programs required by this chapter, each long-term care facility shall provide both of the following to each nurse aide it uses:

(A) An orientation program that includes at least an explanation of the organizational structure of the facility, its policies and procedures, its philosophy of care, a description of its resident population, and an enumeration of its employee rules;

(B) Regular performance review and in-service education to assure that individuals working in the facility as nurse aides are competent to perform the nursing and nursing-related services they perform. In-service education shall include training for nurse aides providing nursing and nursing-related services to residents and patients with cognitive impairments.

The ~~public~~ director of health council shall adopt rules to implement the purposes of this section. The rules shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:

(A) "Bed surrender" means the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes;

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds.

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless

of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred;

(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.

(D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.

(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the following:

(1) For fiscal year 2012, eleven dollars and forty-seven cents;

(2) For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty-seven cents.

(G) "Hospital" has the same meaning as in section 3727.01 of the

Revised Code.

(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(I) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(J) ~~"Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.~~

(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(L) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.~~

~~(M)~~(K) "Medicare" means the program established by Title XVIII.

~~(N)~~(L) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~(O)~~(M)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified

as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include ~~any~~ either of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code;

~~(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX.~~

~~(P)~~(N) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

~~(Q)~~(O) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(R)~~(P) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to sections 3721.512, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) Subject to sections 3721.512, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus

any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(C) If the total amount of the franchise permit fee assessed under divisions (A) and (B) of this section for a fiscal year exceeds the indirect guarantee percentage of the actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year and seventy-five per cent or more of the combined total number of nursing homes and hospital long-term care units receive enhanced medicaid payments or other state payments equal to seventy-five per cent or more of their total franchise permit fee assessments, do both of the following:

(1) Recalculate the assessments under divisions (A) and (B) of this section using a per bed per day rate equal to the indirect guarantee percentage of actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under divisions (A) and (B) of this section and the amount recalculated under division (C)(1) of this section as a credit against the assessments imposed under divisions (A) and (B) of this section for the subsequent fiscal year.

(D) If the United States centers for medicare and medicaid services determines that the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code is an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, take all necessary actions to cease implementation of sections 3721.50 to 3721.58 of the Revised Code in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3723.06. (A) The director of health shall license radon testers, mitigation specialists, and mitigation contractors. Each applicant for a license shall submit a completed application to the director on a form the director shall prescribe and furnish.

(B) In accordance with rules adopted ~~by the public health council~~ under section 3723.09 of the Revised Code, the director shall issue the appropriate license to each applicant that pays the license fee prescribed by the ~~council~~ director, meets the licensing criteria established by the ~~council~~ director, and complies with any other licensing and training requirements established by

the ~~council~~ director. An individual, business entity, or government entity may hold more than one license issued under this section, but a separate application is required for each license.

(C) Notwithstanding division (B) of this section, the director shall issue a radon mitigation contractor license on request to the holder of a radon mitigation specialist license if the license holder is the owner or chief stockholder of a business entity for which ~~he~~ the license holder is the only individual who will work as a radon mitigation specialist. The licensing criteria and any other licensing and training requirements the individual was required to meet to qualify for the radon mitigation specialist license are hereby deemed to satisfy any and all criteria and requirements for a radon mitigation contractor license. A license issued under this division shall expire at the same time as the individual's radon mitigation specialist license. No license fee shall be imposed for a license issued under this division.

(D) A license issued under this section expires biennially and may be renewed by the director in accordance with criteria and procedures established ~~by the public health council in rules adopted~~ under section 3723.09 of the Revised Code and on payment of the license renewal fee prescribed ~~by the council in those rules~~.

(E) In accordance with Chapter 119. of the Revised Code, the director may do either of the following:

(1) Refuse to issue a license to an individual, business entity, or government entity that does not meet the requirements of this chapter or the rules adopted under it or has been in violation of those requirements;

(2) Suspend, revoke, or refuse to renew the license of an individual, business entity, or government entity that is or has been in violation of the requirements of this chapter or the rules adopted under it.

Sec. 3723.07. The director of health shall approve all of the following:

(A) Licensure training courses for radon testers and mitigation specialists;

(B) Training courses for employees of mitigation contractors;

(C) Radon laboratories.

Each applicant for approval shall submit a completed application to the director on a form the director shall prescribe and furnish.

In accordance with rules adopted ~~by the public health council~~ under section 3723.09 of the Revised Code, the director shall issue the appropriate approval to each applicant that pays the approval fee prescribed by the ~~council~~ director and meets the criteria for approval established by the ~~council~~ director.

In accordance with Chapter 119. of the Revised Code, the director may refuse to issue an approval and may revoke or suspend an approval issued under this section if the operator of the course or laboratory fails to meet the criteria established by the ~~public health council~~ director.

Sec. 3723.09. (A) To protect the health of individuals inhabiting, occupying, or frequenting buildings, the ~~public~~ director of health ~~council~~ shall adopt rules to implement the requirements of this chapter. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The ~~public health council~~ director shall adopt rules establishing criteria and procedures ~~to be followed by the director of health in~~ for issuing and renewing licenses under section 3723.06 of the Revised Code to radon testers, mitigation specialists, and mitigation contractors. The rules may require that all applicants for licensure as a radon tester or mitigation specialist pass an examination. If an examination is required, the rules may require applicants to pass an examination conducted by the department or an appropriate examination conducted by the United States environmental protection agency.

(C) The ~~public health council~~ director shall adopt rules establishing criteria and procedures ~~to be followed by the director of health in~~ for approving training courses under section 3723.07 of the Revised Code. The rules may require that participants in training courses pass an examination conducted by the operator of the course and may require that the examinations be approved by the director ~~of health~~.

(D) The ~~public health council~~ director shall adopt rules establishing criteria and procedures ~~to be followed by the director of health in~~ for approving radon laboratories under section 3723.07 of the Revised Code.

(E) The ~~public health council~~ director shall adopt rules establishing reasonable fees for licenses, license renewals, radon laboratory approvals, and training course approvals.

(F) The ~~public health council~~ director shall adopt rules establishing standards to be followed by licensed radon testers, mitigation specialists, and mitigation contractors for the prevention of hazards to the public health, including standards for worker protection, record keeping, and training of employees of licensed radon mitigation contractors.

(G) The ~~public health council~~ director shall adopt rules establishing procedures to be followed by any individual, business entity, or government entity licensed by another state to practice as a radon tester, mitigation specialist, or mitigation contractor in providing notice to the director of health prior to commencing practice in this state pursuant to section 3723.03

of the Revised Code.

(H) The ~~public health council~~ director may adopt rules that require licensed radon testers and mitigation specialists to report to the director of health, by street address, radon test results that indicate the presence of radon at a level considered to be dangerous as determined by the ~~council~~ director. The rules may require the reporting of screening measurements, follow-up measurements, post-mitigation measurements, and, if it is known that radon mitigation has been performed, the methods of mitigation that were used. Any information required to be reported to the director under these rules is not a public record under section 149.43 of the Revised Code, and shall not be released except in aggregate statistical form.

Sec. 3725.02. (A) No person other than a hospital shall collect plasma, regardless of the use for which the plasma is intended, except at a plasmapheresis center holding a current, valid certificate of approval issued by the director of health.

Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(B) The ~~public health council~~ director shall adopt such rules as are necessary to carry out this chapter.

Sec. 3727.01. (A) As used in this section, "health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the following:

(1) Provides or otherwise makes available to enrolled participants health care services including at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive service, and out-of-area coverage;

(2) Is compensated, except for copayments, for the provision of basic health care services to enrolled participants by a payment that is paid on a periodic basis without regard to the date the health care services are provided and that is fixed without regard to the frequency, extent, or kind of health service actually provided;

(3) Provides physician services primarily in either of the following ways:

(a) Directly through physicians who are either employees or partners of the organization;

(b) Through arrangements with individual physicians or one or more groups of physicians organized on a group-practice or individual-practice basis.

(B) As used in this chapter:

(1) "Children's hospital" ~~has the same meaning as in section 3702.51 of the Revised Code~~ means any of the following:

(a) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(b) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(c) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (B)(1)(a) of this section.

(2) "Hospital" means an institution classified as a hospital under section 3701.07 of the Revised Code in which are provided to inpatients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than twenty-four hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under Chapter 3721. of the Revised Code, a health care facility operated by the department of mental health or the department of developmental disabilities, a health maintenance organization that does not operate a hospital, the office of any private licensed health care professional, whether organized for individual or group practice, or a clinic that provides ambulatory patient services and where patients are not regularly admitted as inpatients. "Hospital" also does not include an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(3) "Joint commission" means the commission formerly known as the joint commission on accreditation of healthcare organizations or the joint commission on accreditation of hospitals.

Sec. 3727.42. (A) Every hospital shall compile and make available for inspection by the public a price information list containing the information specified in division (B) of this section and shall periodically update the list to maintain current information. The price information list shall be compiled and made available in a format that complies with the electronic transaction standards and code sets adopted by the United States secretary of health and human services under 42 U.S.C. 1320d-2.

(B) Each price information list required by division (A) of this section shall contain all of the following information:

(1) The usual and customary room and board charges for each level of care within the hospital, including but not limited to private rooms, semiprivate rooms, other multiple patient rooms, and intensive care and other specialty units;

(2) Rates charged for nursing care, if the hospital charges separately for nursing care;

(3) The usual and customary charges, stated separately for inpatients and outpatients if different charges are imposed, for any of the following services provided by the hospital:

(a) The thirty most common x-ray and radiological procedures;

(b) The thirty most common laboratory procedures;

(c) Emergency room services;

(d) Operating room services;

(e) Delivery room services;

(f) Physical, occupational, and pulmonary therapy services;

(g) Any other services designated as high volume services by a rule which shall be adopted by the public director of health council.

(4) The hospital's billing policies, including whether the hospital charges interest on an amount not paid in full by any person or government entity and the interest rate charged;

(5) Whether or not the charges listed include fees for the services of hospital-based anesthesiologists, radiologists, pathologists, and emergency room physicians and, if a charge does not include such fees, how such fee information can be obtained.

(C) Every hospital shall do all of the following with the price information list required by this section:

(1) At the time of admission, or as soon as practical thereafter, inform each patient of the availability of the list and on request provide the patient with a free copy of the list;

(2) On request, provide a paper copy of the list to any person or governmental agency, subject to payment of a reasonable fee for copying

and processing;

(3) Make the list available free of charge on the hospital's internet web site.

Sec. 3729.01. As used in this chapter:

(A) "Camp operator" means the operator of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

(B) "Campsite user" means a person who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp.

(C) "Combined park-camp" means any tract of land upon which a combination of five or more self-contained recreational vehicles or portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities. A tract of land that is subdivided for lease or other contract of the individual lots is a combined park-camp if a combination of five or more recreational vehicles or portable camping units are placed on it for recreation, vacation, or business purposes.

"Combined park-camp" does not include any tract of land used solely as a temporary park-camp or solely as a manufactured home park.

(D) "Dependent recreational vehicle" means a recreational vehicle other than a self-contained recreational vehicle. "Dependent recreational vehicle" includes a park model.

(E) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a recreational vehicle park, recreation camp, or combined park-camp, for which plan review is required under division (A) of section 3729.03 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(F) "Director of health" means the director of health or the director's authorized representative.

(G) "Flood" or "flooding" means either of the following:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source;

(c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (G)(1)(a) of this section.

(H) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.

(I) "Licensor" means either the board of health of a city or general health district, or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code, or the director of health, when required under division (B) of section 3729.06 of the Revised Code. "Licensor" also means an authorized representative of any of those entities or of the director.

(J) "Manufactured home park" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code.

(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.

(L) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood.

(M) "Operator" means the person who has responsible charge of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp and who is licensed under this chapter.

(N) "Park model" means a recreational vehicle that meets the American national standard institute standard A119.5(1988) for park trailers, is built on a single chassis, has a gross trailer area of not more than four hundred square feet when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for operation of installed features and appliances.

(O) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state.

(P) "Portable camping units" means dependent recreational vehicles, tents, portable sleeping equipment, and similar camping equipment used for

travel, recreation, vacation, or business purposes.

(Q) "Recreation camp" means any tract of land upon which five or more portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the camp. A tract of land that is subdivided for lease or other contract of the individual lots is a recreation camp if five or more portable camping units are placed on it for recreation, vacation, or business purposes.

"Recreation camp" does not include any tract of land used solely for the storage or display for sale of dependent recreational vehicles, solely as a temporary park-camp, or solely as a manufactured home park.

(R) "Recreational vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(S) "Recreational vehicle park" means any tract of land used for parking five or more self-contained recreational vehicles and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities and any tract of land that is subdivided for lease or other contract of the individual lots for the express or implied purpose of placing self-contained recreational vehicles for recreation, vacation, or business purposes.

"Recreational vehicle park" does not include any tract of land used solely for the storage or display for sale of self-contained recreational vehicles, solely as a temporary park-camp, or solely as a manufactured home park.

(T) "Self-contained recreational vehicle" means a recreational vehicle that can operate independent of connections to sewer and water and has plumbing fixtures or appliances all of which are connected to sewage holding tanks located within the vehicle. "Self-contained recreational vehicle" includes a park model.

(U) "Substantially alter" means a change in the layout or design of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp, including, without limitation, the movement of utilities or changes in established streets, lots, or sites or in other facilities.

(V) "Temporary park-camp" means any tract of land used for a period not to exceed a total of twenty-one days per calendar year for the purpose of parking five or more recreational vehicles, dependent recreational vehicles, or portable camping units, or any combination thereof, for one or more periods of time that do not exceed seven consecutive days or parts thereof.

(W) "Tract" means a contiguous area of land that consists of one or more parcels, lots, or sites that have been separately surveyed regardless of whether the individual parcels, lots, or sites have been recorded and

regardless of whether the one or more parcels, lots, or sites are under common or different ownership.

Sec. 3729.02. (A) The ~~public~~ director of health council, subject to Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state governing the review of plans and issuance of licenses for and the location, layout, construction, drainage, sanitation, safety, and operation of recreational vehicle parks, recreation camps, and combined park-camps. The rules shall not apply to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

(B) The ~~public health council~~ director, subject to Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state governing the review of plans and issuance of licenses for and the layout, sanitation, safety, and operation of temporary park-camps. The rules shall not apply to the construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable.

Sec. 3729.03. (A) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, or combined park-camp until the plans for the development have been submitted to and reviewed and approved by the director of health. This division does not require that plans be submitted to the director for approval for the replacement of recreational vehicles or portable camping units on previously approved sites in a recreational vehicle park, recreation camp, or combined park-camp when no development is to occur in connection with the replacement. Within thirty days after receipt of the plans, all supporting documents and materials required to complete the review, and the applicable plan review fee established under division (D) of this section, the director shall approve or disapprove the plans.

(B) Any person aggrieved by the director's disapproval of a set of plans under division (A) of this section may request a hearing on the matter within thirty days after receipt of the director's notice of the disapproval. The hearing shall be held in accordance with Chapter 119. of the Revised Code. Thereafter, the disapproval may be appealed in the manner provided in section 119.12 of the Revised Code.

(C) The director shall establish a system by which development occurring within a recreational vehicle park, recreation camp, or combined park-camp is inspected or verified in accordance with rules adopted under division (A) of section 3729.02 of the Revised Code to ensure that the development complies with the plans approved under division (A) of this section.

(D) The ~~public health council~~ director shall establish fees for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section.

(E) The director shall charge the appropriate fees established under division (D) of this section for reviewing plans under division (A) of this section and conducting inspections under division (C) of this section. All such plan review and inspection fees received by the director shall be transmitted to the treasurer of state and shall be credited to the general operations fund created in section 3701.83 of the Revised Code. Moneys so credited to the fund shall be used only for the purpose of administering and enforcing this chapter and rules adopted under it.

(F) Plan approvals issued under this section do not constitute an exemption from the land use and building requirements of the political subdivision in which the recreational vehicle park, recreation camp, or combined park-camp is or is to be located.

Sec. 3729.04. (A) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp that is located within a one-hundred-year flood plain in a municipal corporation unless the person first obtains a permit therefor from the municipal corporation in accordance with the flood plain management ordinance of the municipal corporation.

(B) No person shall cause development to occur within any portion of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp that is located within a one-hundred-year flood plain in an unincorporated area unless the person first obtains a permit therefor from the board of county commissioners of the county in which the development is to occur in accordance with the flood plain management resolution of the county adopted under section 307.37 of the Revised Code.

(C) If development for which a permit is required under division (A) or (B) of this section is to occur on a site where a recreational vehicle or portable camping unit is or is to be located, the owner of the recreational vehicle or portable camping unit and the operator of the recreational vehicle park, recreation camp, or combined park-camp shall jointly obtain the permit. Each of the persons to whom a permit is jointly issued is responsible for compliance with the provisions of the approved permit that are applicable to that person.

If development for which a permit is required under division (A) or (B) of this section is to occur within a temporary park-camp on a site where a recreational vehicle or portable camping unit is or is to be located, the owner of the temporary park-camp shall obtain the permit.

(D) Fees established by a municipal corporation or county for the issuance of permits under division (A) or (B) of this section are not subject to regulation by the ~~public~~ director of health council.

Sec. 3729.07. The licensor of a recreational vehicle park, recreation camp, or combined park-camp may charge a fee for an annual license to operate such a park, camp, or park-camp. In the case of a temporary park-camp, the licensor may charge a fee for a license to operate the temporary park-camp for the period specified in division (A) of section 3729.05 of the Revised Code. The fees for both types of licenses shall be determined in accordance with section 3709.09 of the Revised Code and shall include the cost of licensing and all inspections.

Except for the fee for a temporary park-camp license, the fee also shall include any additional amount determined by rule of the ~~public~~ director of health council, which shall be collected and transmitted by the board of health to the director ~~of health~~ pursuant to section 3709.092 of the Revised Code and used only for the purpose of administering and enforcing this chapter and rules adopted under it. The portion of any fee retained by the board of health shall be paid into a special fund and used only for the purpose of administering and enforcing this chapter and rules adopted under it.

Sec. 3729.08. The licensor of the health district in which a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp is or is to be located, in accordance with Chapter 119. of the Revised Code, may refuse to grant, may suspend, or may revoke any license granted to any person for failure to comply with this chapter or with any rule adopted by the ~~public~~ director of health council under section 3729.02 of the Revised Code.

Sec. 3730.10. (A) ~~Not later than ninety days after the effective date of this section, the public~~ The director of health council shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the implementation and enforcement of this chapter. The rules shall include all of the following:

(1) Safety and sanitation standards and procedures to be followed to prevent the transmission of infectious diseases during the performance of tattooing and body piercing procedures;

(2) Standards and procedures to be followed for appropriate disinfection and sterilization of all invasive equipment or parts of equipment used in tattooing procedures, body piercing procedures, and ear piercing procedures performed with an ear piercing gun;

(3) Procedures for suspending and revoking approvals under section

3730.05 of the Revised Code.

(B) The rules adopted under division (A)(1) of this section shall establish universal blood and body fluid precautions to be used by any individual who performs tattooing or body piercing procedures. The precautions shall include all of the following:

- (1) The appropriate use of hand washing;
- (2) The handling and disposal of all needles and other sharp instruments used in tattooing or body piercing procedures;
- (3) The wearing and disposal of gloves and other protective garments and devices.

(C) The rules adopted under division (A) of this section may include standards and procedures to be followed by a business that offers tattooing or body piercing services to ensure that the individuals who perform tattooing or body piercing procedures for the business are adequately trained to perform the procedures properly.

Sec. 3733.41. As used in sections 3733.41 to 3733.49 of the Revised Code:

(A) "Agricultural labor camp" means one or more buildings or structures, trailers, tents, or vehicles, together with any land appertaining thereto, established, operated, or used as temporary living quarters for two or more families or five or more persons intending to engage in or engaged in agriculture or related food processing, whether occupancy is by rent, lease, or mutual agreement. "Agricultural labor camp" does not include a hotel or motel, or a manufactured home park regulated pursuant to ~~section 3733.04~~ sections 4781.26 to 4781.52 of the Revised Code, and rules adopted thereunder.

(B) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code or an authorized representative of the board of health.

(C) "Director" means the director of ~~the department of~~ health or the authorized representative of the director of health.

(D) "Licensor" means the director of health.

(E) "Person" means the state, any political subdivision, public or private corporation, partnership, association, trust, individual, or other entity.

~~(F) "Public health council" means the public health council as created by section 3701.33 of the Revised Code.~~

Sec. 3733.42. The ~~public~~ director of health ~~council~~, subject to sections 119.01 to 119.13 of the Revised Code, shall adopt rules having a uniform application throughout the state, governing the issuance of licenses,

location, layout, construction, approval of plans, sanitation, safety, operation, use, and maintenance of agricultural labor camps. The rules shall establish minimum standards of habitability with which a licensee shall comply in operating an agricultural labor camp. The rules shall establish, beyond minimum standards of habitability, additional standards of habitability for those camps and shall establish priorities for those additional standards with which a licensee may ~~voluntary~~ voluntarily comply.

In addition to meeting the requirements of section 119.03 of the Revised Code, the director of health shall mail a notice of the date, time, and place of any hearing on the adoption, amendment, or rescission of such rules and the full text of the proposed rule, amendment, or rule to be rescinded, at least thirty days prior to the hearing date, to all persons currently authorized or licensed to operate camps by the department of health, or authorized or licensed to operate camps in the previous calendar year.

Sec. 3734.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

(B) "Director" means the director of environmental protection.

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage; scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste.

(F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid wastes consist of scrap tires, the disposition or placement constitutes a

beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code.

(G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or instrumentality thereof, and any legal entity defined as a person under section 1.59 of the Revised Code.

(H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section 3734.02 of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted under division (V) of this section or section 3734.73 of the Revised Code, or the burning of treated or untreated infectious wastes in an open area or in a type of chamber or vessel that is not approved in rules adopted by the director under section 3734.021 of the Revised Code.

(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; the depositing of untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat.

919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process designed to change the physical, chemical, or biological characteristics or composition of any hazardous waste; to neutralize the waste; to recover energy or material resources from the waste; to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, storage, further treatment, or disposal; or to reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment" means any method, technique, or process designed to render the wastes noninfectious, including, without limitation, steam sterilization and incineration, or, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or reclaimed in a beneficial manner. When used in connection with solid wastes that consist of scrap tires, "storage" means the holding of scrap tires for a temporary period in such a manner that they remain retrievable and, at the end of that period, are beneficially used; stored elsewhere; placed in a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code; processed at a scrap tire recovery facility licensed under that section or a solid waste incineration or energy recovery facility subject to regulation under this chapter; or transported to a scrap tire monocell, monofill, or recovery facility, any other solid waste facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of the state in which the facility is located.

(N) "Facility" means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for the collection, storage, or processing of the solid wastes; for the transfer of solid wastes; for the treatment of infectious wastes; or for the

storage, treatment, or disposal of hazardous waste.

(O) "Closure" means the time at which a hazardous waste facility will no longer accept hazardous waste for treatment, storage, or disposal, the time at which a solid waste facility will no longer accept solid wastes for transfer or disposal or, if the solid wastes consist of scrap tires, for storage or processing, or the effective date of an order revoking the permit for a hazardous waste facility or the registration certificate, permit, or license for a solid waste facility, as applicable. "Closure" includes measures performed to protect public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, but not limited to, the removal of processing residues resulting from solid wastes that consist of scrap tires; the establishment and maintenance of a suitable cover of soil and vegetation over cells in which hazardous waste or solid wastes are buried; minimization of erosion, the infiltration of surface water into such cells, the production of leachate, and the accumulation and runoff of contaminated surface water; the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff, except as otherwise provided in this division; the final construction of air and water quality monitoring facilities, except as otherwise provided in this division; the final construction of methane gas extraction and treatment systems; or the removal and proper disposal of hazardous waste or solid wastes from a facility when necessary to protect public health or safety or to abate or prevent air or water pollution. With regard to a solid waste facility that is a scrap tire facility, "closure" includes the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff and the final construction of air and water quality monitoring facilities only if those actions are determined to be necessary.

(P) "Premises" means either of the following:

- (1) Geographically contiguous property owned by a generator;
- (2) Noncontiguous property that is owned by a generator and connected by a right-of-way that the generator controls and to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way or rights-of-way are a single premises.

(Q) "Post-closure" means that period of time following closure during which a hazardous waste facility is required to be monitored and maintained under this chapter and rules adopted under it, including, without limitation, operation and maintenance of methane gas extraction and treatment systems, or the period of time after closure during which a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code is

required to be monitored and maintained under this chapter and rules adopted under it.

(R) "Infectious wastes" includes all of the following substances or categories of substances:

(1) Cultures and stocks of infectious agents and associated biologicals, including, without limitation, specimen cultures, cultures and stocks of infectious agents, wastes from production of biologicals, and discarded live and attenuated vaccines;

(2) Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;

(3) Pathological wastes, including, without limitation, human and animal tissues, organs, and body parts, and body fluids and excreta that are contaminated with or are likely to be contaminated with infectious agents, removed or obtained during surgery or autopsy or for diagnostic evaluation, provided that, with regard to pathological wastes from animals, the animals have or are likely to have been exposed to a zoonotic or infectious agent;

(4) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under division (R)(8) of this section.

(5) Human and animal blood specimens and blood products that are being disposed of, provided that, with regard to blood specimens and blood products from animals, the animals were or are likely to have been exposed to a zoonotic or infectious agent. "Blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.

(6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents from zoonotic or human diseases during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected by zoonotic or infectious agents that may present a substantial threat to

public health if improperly managed;

(7) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical, research, or industrial laboratories, including, without limitation, hypodermic needles and syringes, scalpel blades, and glass articles that have been broken;

(8) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the ~~public~~ director of health ~~council created in section 3701.33 of the Revised Code~~, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

(S) "Infectious agent" means a type of microorganism, helminth, or virus that causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

(T) "Zoonotic agent" means a type of microorganism, helminth, or virus that causes disease in vertebrate animals and that is transmissible to human beings and causes or significantly contributes to the cause of increased morbidity or mortality of human beings.

(U) "Solid waste transfer facility" means any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that were generated off the premises of the facility from vehicles or containers into other vehicles for transportation to a solid waste disposal facility. "Solid waste transfer facility" does not include any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less nor any facility where legitimate recycling activities are conducted.

(V) "Beneficially use" means to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in rules adopted by the director in accordance with Chapter 119. of the Revised Code.

(W) "Commercial car," "commercial tractor," "farm machinery," "motor bus," "vehicles," "motor vehicle," and "semitrailer" have the same meanings as in section 4501.01 of the Revised Code.

(X) "Construction equipment" means road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, or in mining or producing or processing aggregates, and not designed for or used in general highway transportation.

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code.

(Z) "Scrap tire" means an unwanted or discarded tire.

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications:

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(2) The facility exclusively stores scrap tires in portable containers.

(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet.

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed.

(CC) "Scrap tire monofill facility" means an engineered facility used or intended to be used exclusively for the storage or disposal of scrap tires, including at least facilities for the submergence of whole scrap tires in a body of water.

(DD) "Scrap tire recovery facility" means any facility, or portion thereof, for the processing of scrap tires for the purpose of extracting or producing usable products, materials, or energy from the scrap tires through a controlled combustion process, mechanical process, or chemical process. "Scrap tire recovery facility" includes any facility that uses the controlled combustion of scrap tires in a manufacturing process to produce process heat or steam or any facility that produces usable heat or electric power through the controlled combustion of scrap tires in combination with another fuel, but does not include any solid waste incineration or energy recovery facility that is designed, constructed, and used for the primary purpose of incinerating mixed municipal solid wastes and that burns scrap tires in conjunction with mixed municipal solid wastes, or any tire retreading business, tire manufacturing finishing center, or tire adjustment center having on the premises of the business a single, covered scrap tire

storage area at which not more than four thousand scrap tires are stored.

(EE) "Scrap tire storage facility" means any facility where whole scrap tires are stored prior to their transportation to a scrap tire monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(FF) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of that use, is contaminated by physical or chemical impurities. "Used oil" includes only those substances identified as used oil by the United States environmental protection agency under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 U.S.C.A. 6901a, as amended.

(GG) "Accumulated speculatively" has the same meaning as in rules adopted by the director under section 3734.12 of the Revised Code.

Sec. 3734.131. (A)(1) Except as provided in divisions (D)(1) and (2) of this section, no person shall transport any solid wastes from outside this state to a solid waste facility in this state unless that person has first irrevocably consented in writing to the jurisdiction of the courts of this state and service of process in this state, including, without limitation, summonses and subpoenas, for any civil or criminal proceeding arising out of or relating to the wastes that are shipped to a facility in this state.

(2) The original of the consent-to-jurisdiction document shall be legible and shall be filed with the director of environmental protection on a form provided by the director. A legible copy of the completed document shall be filed with the owner or operator of each solid waste facility to which the wastes are transported. A consent-to-jurisdiction document applies only to shipments into this state of wastes described in division (A)(1) of this section.

(3) All consent-to-jurisdiction documents required under division (A)(1) or (3) of this section shall be refiled during the month of December, 1995, and during the month of December of every fourth year thereafter. Except as provided in division (D)(1) of this section, after December 31, 1995, or after the thirty-first day of December of every fourth year thereafter, whichever is applicable, no person shall continue to transport any solid wastes from outside this state to a solid waste facility in this state unless the person

refiles with the director and the owner or operator of each facility to which the wastes are transported consent-to-jurisdiction documents, in the manner prescribed in division (A)(2) of this section, during the month of December next preceding the period for which the refiled document is required.

(4) If the address of a person changes from that listed on the current consent-to-jurisdiction document filed under division (A)(1) or (3) of this section, the person shall file amended consent-to-jurisdiction documents containing the new address with the director and the owner or operator of each facility to which the wastes are transported.

(5)(a) Except as provided in division (D)(1) of this section, no person identified in divisions (D)(2)(a) to (d) of this section shall transport any solid wastes from outside this state to a solid waste facility in this state unless the person has first filed a notification and authorization document naming the person's agent who is authorized to accept service of process in this state, including, without limitation, summonses and subpoenas, for any civil or criminal proceeding arising out of or relating to the wastes that are shipped to a facility in this state.

The original of the notification and authorization document shall be legible and shall be filed with the director on a form provided by the director. A legible copy of the completed document shall be filed with the owner or operator of each solid waste facility to which the wastes are transported.

(b) All notification and authorization documents required under division (A)(5) of this section shall be refiled during the month of December, 1995, and during the month of December of every fourth year thereafter. Except as provided in division (D)(1) of this section, after December 31, 1995, or after the thirty-first day of December of every fourth year thereafter, whichever is applicable, no person identified in divisions (D)(2)(a) to (d) of this section shall continue to transport any solid wastes from outside this state to a solid waste facility in this state unless the person refiles with the director and the owner or operator of each facility to which the wastes are transported notification and authorization documents, in the manner prescribed in division (A)(5)(a) of this section, during the month of December next preceding the period for which the refiled document is required.

(c) If a person's agent or the address of a person's agent changes from that listed on the current notification and authorization document filed under division (A)(5)(a) or (b) of this section, the person shall file amended notification and authorization documents containing the name and address of the new agent or the agent's new address with the director and the owner or operator of each facility to which the wastes are transported.

(B) A person who enters this state pursuant to a summons, subpoena, or other form of process authorized by this section is not subject to arrest or the service of process, whether civil or criminal, in connection with other matters that arose before his entrance into this state pursuant to the summons, subpoena, or other form of process authorized by this section.

(C)(1) Except as provided in division (D)(1) of this section, no owner, operator, or employee of a solid waste facility shall accept for treatment, transfer, storage, or disposal at the facility any solid wastes from outside the boundaries of this state unless the facility has received a copy of the consent-to-jurisdiction document or notification and authorization document required under this section and applicable to the wastes.

(2) The owner or operator of a solid waste facility shall keep the consent-to-jurisdiction documents and the notification and authorization documents filed with him under this section at the facility in such a location and manner that they are readily accessible to the director or his authorized representative, and the board of health having jurisdiction over the facility and its authorized representative, for the purposes of sections 3734.07 and 3734.10 of the Revised Code.

(D)(1) Divisions (A), (B), and (C) of this section do not apply to the transportation, transfer, or disposal of solid wastes from residential premises located less than ten miles outside the boundaries of this state.

(2) Divisions (A)(1) to (4) of this section do not apply to any of the following:

(a) A corporation incorporated under the laws of this state that has appointed a statutory agent pursuant to section 1701.07 of the Revised Code;

(b) A foreign corporation licensed to transact business in this state that has appointed a designated agent pursuant to section 1703.041 of the Revised Code;

(c) A ~~nonresident~~ motor carrier ~~that has designated an agent pursuant to, as defined in section 4919.77 4923.01 of the Revised Code, that is a nonresident;~~

(d) Any other person who is a resident of this state.

Sec. 3734.15. (A) No person shall transport hazardous waste anywhere in this state unless ~~he~~ the person has first registered with and obtained a uniform permit from the public utilities commission in accordance with ~~section 4905.80 Chapter 4921.~~ of the Revised Code.

For the purposes of this section, "registered transporter" means any person who is registered with and has received a uniform permit from the public utilities commission pursuant to ~~section 4905.80 Chapter 4921.~~ of the

Revised Code.

(B) A registered transporter of hazardous waste shall be responsible for the safe delivery of any hazardous waste that ~~he~~ the registered transporter transports from such time as ~~he~~ the registered transporter obtains the waste until ~~he~~ the registered transporter delivers it to a treatment, storage, or disposal facility specified in division (F) of section 3734.02 of the Revised Code, as recorded on the manifest required in division (B) of section 3734.12 of the Revised Code. Any registered transporter who violates this chapter or any rule adopted under the chapter while transporting hazardous waste shall be liable for any damage or injury caused by the violation and for the costs of rectifying the violation and conditions caused by the violation.

(C) No person who generates hazardous waste shall cause the waste to be transported by any person who is not a registered transporter. No person shall accept for treatment, storage, or disposal any hazardous waste from an unregistered transporter. Any person who is requested to accept such waste for treatment, storage, or disposal shall notify the director, the board of health in ~~his~~ the person's location, and the public utilities commission of the request.

If a generator causes an unregistered transporter to transport the hazardous waste, the generator of the waste, the transporter, and any person who accepts the waste for treatment, storage, or disposal shall be jointly and severally liable for any damage or injury caused by the handling of the waste and for the costs of rectifying their violation and conditions caused by their violation.

Sec. 3734.51. There is hereby created within the environmental protection agency the solid waste management advisory council consisting of the directors of environmental protection, and development, ~~and natural resources~~, or their designees, as members ex officio, one member of the senate to be appointed by the president of the senate, one member of the house of representatives to be appointed by the speaker of the house of representatives, and fourteen members to be appointed by the governor with the advice and consent of the senate. Of the appointed members, one shall be an employee of a health district whose duties include enforcement of the solid waste provisions of this chapter, two shall represent the interests of counties, two shall represent the interests of municipal corporations, two shall represent the interests of townships, one shall represent the interests of county solid waste management districts, one shall represent the interests of joint solid waste management districts, one shall represent the interests of industrial generators of solid wastes, one shall be from the private recycling

industry, one shall be from the private solid waste management industry, one shall be from a statewide environmental advocacy organization, and one shall represent the public. ~~Within ninety days after June 24, 1988, the governor shall make the initial appointments to the advisory council. Of those initial appointments, six shall be for a term ending June 24, 1989, and six shall be for a term ending June 24, 1990. The governor shall make the initial appointments to the advisory council of the members representing county and joint solid waste management districts within ninety days after the effective date of this amendment. Of the initial appointments of the members representing solid waste management districts, one shall be for a term ending June 24, 1993, and one shall be for a term ending June 24, 1994. Thereafter, terms~~ Terms of office shall be for two years with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of his appointment until the end of the term for which ~~he~~ the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration of ~~his~~ the member's term or until a period of sixty days has elapsed, whichever occurs first.

The advisory council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the behest of the ~~chairman~~ chairperson or a majority of the members. The director of environmental protection shall serve as ~~chairman~~ chairperson of the advisory council. The advisory council annually shall select from among its members a vice-~~chairman~~ chairperson and a secretary to keep a record of its proceedings. A majority vote of the members of the advisory council is necessary to take action on any matter.

Serving as an appointed member of the advisory council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment. The governor may remove an appointed member of the advisory council at any time for misfeasance, nonfeasance, or malfeasance in office.

Appointed members of the advisory council shall serve without compensation for attending council meetings. Members of the advisory council shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council from moneys appropriated to the environmental protection agency for administration and

enforcement of the solid waste provisions of this chapter.

The advisory council shall do all of the following:

(A) Advise and assist the director of environmental protection with preparation of the state solid waste management plan and periodic revisions to the plan under section 3734.50 of the Revised Code;

(B) Approve or disapprove the draft state solid waste management plan and periodic revisions prior to adoption of the plan under section 3734.50 of the Revised Code;

(C) Annually review implementation of the state solid waste management plan and the solid waste management plans of county and joint solid waste management districts approved or ordered to be implemented under section 3734.521 or 3734.55 of the Revised Code or amendments to those plans approved or ordered to be implemented under section 3734.521 or 3734.56 of the Revised Code, and report its findings to the director.

Sec. 3734.55. (A) Upon completion of its draft solid waste management plan under section 3734.54 of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district shall send a copy of the draft plan to the director of environmental protection for preliminary review and comment. Within forty-five days after receiving the draft plan, the director shall provide the committee with a written, nonbinding advisory opinion regarding the draft plan and any recommended changes to it that the director considers necessary to effect its approval. After receipt of the director's written opinion, the committee may make such revisions to the draft plan based on the director's opinion as it considers appropriate. Upon receipt of the director's opinion and after making any such revisions to the draft plan, the committee shall prepare and publish in at least one newspaper of general circulation within the county or joint district a public notice that describes the draft plan, specifies the location where it is available for review, and establishes a period of thirty days for comments concerning the draft plan. The committee shall send written notice of the draft plan to adjacent county and joint districts and shall make it available for review by those districts, by the board of county commissioners of each county forming the district, by all municipal corporations and townships within the county or joint district, and by the public. The committee also shall send written notice of the plan to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the board, and their local trade associations. The board shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice

under this division to a particular industrial, commercial, or institutional generator or local trade association does not invalidate the proceedings under this section. All such written notices shall include the date, time, and location of the public hearing; the dates when the comment period begins and ends; and a description of the plan that includes, without limitation, the proposed amount of the fees to be levied under the plan pursuant to division (B) of section 3734.57 or division (A) of section 3734.573 of the Revised Code, if any, and an indication as to whether the provision required to be included in the plan under division (E)(1) of section 3734.53 of the Revised Code authorizes the board of county commissioners or directors of the district to establish, or precludes the board from establishing, facility designations under section 343.014 of the Revised Code. Within fifteen days after expiration of the comment period, the committee shall conduct a public hearing concerning the draft plan and, at least fifteen days before the hearing, shall publish in at least one newspaper of general circulation within the county or joint district a notice containing the time and place of the hearing and the location where the draft plan is available for review.

(B) After the public hearing, the committee may modify the draft plan based upon the public's comments and shall adopt or reject it by a majority vote. Within thirty days after adoption of the draft plan, the committee shall deliver a copy of it to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within ninety days after receiving a copy of the draft plan adopted by the committee, each such board and legislative authority shall approve or disapprove the draft plan, by ordinance or resolution, and deliver a copy of the ordinance or resolution to the committee.

The solid waste management policy committee of a county district or a joint district formed by two or three counties shall declare the draft plan to be ratified as the solid waste management plan of the district upon determining that the board of county commissioners of each county forming the district has approved the draft plan and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the county or joint district comprising at least sixty per cent of the total population of the district have approved the draft plan, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the

largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. The solid waste management policy committee of a joint district formed by four or more counties shall declare the draft plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft plan; that, in each of a majority of the counties forming the joint district, the draft plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft plan.

For the purposes of this division and division (C)(2) of this section, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division and division (C)(2) of this section, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.

(C)(1) Upon ratification of the draft plan under division (B) of this section, the committee shall submit it to the director for review and approval for compliance with the requirements of divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code. The director, by order, shall approve or disapprove the plan within ninety days after its submission. The director shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the committee to submit, within ninety days after issuance of the order, a revised plan that remedies those deficiencies, except that if the committee, by resolution, requests an extension of the time for submission of a revised plan, the director, for good cause shown, may grant one such extension for a period of not more than sixty additional days.

(2) Within sixty days after issuance of the order disapproving its plan, the committee shall prepare a draft revised plan, adopt a draft revised plan by a majority vote, and deliver a copy of the draft revised plan to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the

jurisdiction of the district. Within twenty-one days after the delivery of the draft revised plan, each such board and legislative authority shall approve or disapprove the draft revised plan, by ordinance or resolution, and deliver a copy of the ordinance or resolution to the committee. In the case of a county district or a joint district formed by two or three counties, the committee shall declare the draft revised plan to be ratified as the solid waste management plan of the county or joint district upon determining that the board of county commissioners of each county forming the district has approved the draft revised plan and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the district comprising at least sixty per cent of the total population of the district have approved the draft revised plan, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. In the case of a joint district formed by four or more counties, the committee shall declare the draft revised plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft revised plan; that, in each of a majority of the counties forming the joint district, the draft revised plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft revised plan. Upon ratification of the draft revised plan, the committee shall submit it to the director for approval in accordance with division (C)(1) of this section. The director, by order, shall approve or disapprove the draft revised plan within thirty days after receiving it.

(3) Notwithstanding section 119.06 of the Revised Code, the director may approve or disapprove a plan or revised plan submitted under division (C)(1) or (2) of this section by issuance of a final order that is effective upon issuance, without the necessity to hold any adjudication hearing in connection with the order and without issuance of a proposed action under section 3745.07 of the Revised Code. In any appeal taken under section 3745.04 of the Revised Code pertaining to the director's disapproval of the

solid waste management plan or revised plan of a county or joint district, the solid waste management policy committee of the county or joint district and the director shall be the parties. Upon a showing by the policy committee that there is a substantial likelihood that it will prevail on the merits, the environmental review appeals commission, within thirty days after filing of the notice of appeal under that section and pending final determination of the appeal, may grant temporary relief from the director's order disapproving the district's plan, including the issuance of appropriate orders to the director to refrain from acting under division (D) of this section.

(4) After approval of the plan or revised plan by the director, the board of county commissioners of a county district or board of directors of a joint district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

The committee annually shall review implementation of the plan approved under this section or section 3734.521 of the Revised Code and subsequent amended plans approved under section 3734.521 or 3734.56 of the Revised Code and report its findings and recommendations regarding implementation of the plan to the board of county commissioners or board of directors of the district.

(D) If the director finds that a county or joint solid waste management district has failed to obtain approval of its solid waste management plan within eighteen months after the applicable date prescribed for submission of its plan under division (A) of section 3734.54 of the Revised Code or within twenty-four months after that date if the date for submission was extended under that division, the director shall prepare a solid waste management plan for the county or joint district that complies with divisions (A) and (D) of section 3734.53 of the Revised Code. The plan shall not contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of that section. Upon completion of the plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the plan in compliance with the implementation schedule contained in it.

Within thirty days after the effective date of the order to implement the plan, the board of county commissioners or board of directors of the district shall determine whether the solid waste management policy committee of the district should continue to exist to monitor implementation of the plan or for the purposes of division (B) of section 3734.57 or section 3734.574 of the Revised Code. The board, by resolution, may abolish the committee if it determines that the committee is not necessary for any of those purposes. If

the board of county commissioners or directors of a district that has so abolished the policy committee of the district finds that it is necessary or appropriate for the district to consider levying fees under section 3734.574 of the Revised Code, the board shall reestablish and convene the policy committee to initiate proceedings to levy the fees. If the fees are levied, the policy committee shall continue to exist for as long as the district is levying the fees. If, after a policy committee is convened to initiate proceedings to levy those fees, the fees are not levied or are abolished under section 3734.574 of the Revised Code, the board, by resolution, may abolish the committee if it determines that the committee is not necessary to monitor implementation of the plan.

(E) If the director finds that the board of county commissioners or the board of directors of a district has materially failed to implement the district's plan or amended plan approved under division (C) of this section or section 3734.521 or 3734.56 of the Revised Code, or prepared and ordered to be implemented under division (D) of this section or section 3734.521 or 3734.56 of the Revised Code, in compliance with the implementation schedule contained in the plan or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board to comply with the implementation schedule in the plan or amended plan within a specified, reasonable time. If the director finds that the board of county commissioners or directors of a district for which the provision included in the district's initial or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised Code, or an amendment to the district's approved initial or amended plan adopted and ratified under division (F) of section 3734.56 of the Revised Code, precludes the board from establishing facility designations under section 343.014 of the Revised Code has initiated proceedings to establish facility designations in violation of that section and the district's initial or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or suspend them until after the board has adopted and obtained ratification of an amendment to the district's initial or amended plan under division (F) of section 3734.56 of the Revised Code that authorizes the board to establish facility designations under section 343.014 of the Revised Code. If the director finds that a board of county commissioners or directors of a district for which the provision included in the district's initial or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to division

(E)(1) or (2)(b) or (c) of section 3734.53 of the Revised Code, or an amendment to the district's approved initial or amended plan adopted and ratified under division (F) of section 3734.56 of the Revised Code, authorizes the board to establish facility designations under section 343.014 of the Revised Code has established facility designations under section 343.014 of the Revised Code or continued facility designations under section 343.015 of the Revised Code and subsequently has initiated proceedings to terminate any such facility designations in violation of section 343.014 of the Revised Code and the district's initial or amended plan, the director shall issue an enforcement order under division (A) of section 3734.13 of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or adopt and obtain ratification of an amendment to the district's initial or amended plan under division (F) of section 3734.56 of the Revised Code that precludes the board from establishing facility designations under section 343.014 of the Revised Code.

(F) The director shall maintain a record of the county and joint solid waste management district solid waste management plans and amended plans that the director has approved or ordered to be implemented under this section, section 3734.521, and section 3734.56 of the Revised Code. ~~Upon determining that each county within the state is subject to such a plan or amended plan, the director shall notify the chief of recycling and litter prevention in the department of natural resources of that fact.~~

(G)(1) As used in divisions (C)(4), (D)(1) and (2), and (E) of this section and section 3734.521 of the Revised Code, any reference to a board of county commissioners of a county or a board of directors of a joint solid waste management district is deemed to include the board of trustees of a regional solid waste management authority formed under section 343.011 of the Revised Code.

(2) As used in this section and sections 3734.521 and 3734.57 of the Revised Code, "deliver" includes mailing as well as delivery by a means other than mailing.

Sec. 3734.79. (A) Except as provided in division (B) of this section, each application for a permit submitted under sections 3734.76 to 3734.78 of the Revised Code shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code. If a permit is issued, the amount of the application fee paid shall be deducted from the amount of the applicable permit fee due under division ~~(G)~~(R) of section 3745.11 of the Revised Code.

(B) Division (A) of this section does not apply to an application for a permit for a scrap tire storage facility submitted under section 3734.76 of the Revised Code if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

Sec. 3734.82. (A) The annual fee for a scrap tire recovery facility license issued under section 3734.81 of the Revised Code shall be in accordance with the following schedule:

Daily Design Input Capacity (Tons)	Annual License Fee
1 or less	\$ 100
2 to 25	500
26 to 50	1,000
51 to 100	1,500
101 to 200	2,500
201 to 500	3,500
501 or more	5,500

For the purpose of determining the applicable license fee under this division, the daily design input capacity shall be the quantity of scrap tires the facility is designed to process daily as set forth in the registration certificate or permit for the facility, and any modifications to the permit, if applicable, issued under section 3734.78 of the Revised Code.

(B) The annual fee for a scrap tire monocell or monofill facility license shall be in accordance with the following schedule:

Authorized Maximum Daily Waste Receipt (Tons)	Annual License Fee
100 or less	\$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under this division, the authorized maximum daily waste receipt shall be the maximum amount of scrap tires the facility is authorized to receive daily that is established in the permit for the facility, and any modification to that permit, issued under section 3734.77 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the annual fee for a scrap tire storage facility license shall equal one thousand dollars times the number of acres on which scrap tires are to be

stored at the facility during the license year, as set forth on the application for the annual license, except that the total annual license fee for any such facility shall not exceed three thousand dollars.

(2) The annual fee for a scrap tire storage facility license for a storage facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is one hundred dollars.

(D)(1) Except as otherwise provided in division (D)(2) of this section, the annual fee for a scrap tire collection facility license is two hundred dollars.

(2) The annual fee for a scrap tire collection facility license for a collection facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is fifty dollars.

(E) Except as otherwise provided in divisions (C)(2) and (D)(2) of this section, the same fees apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after the issuance of a license. The fees include the cost of licensing, all inspections, and other costs associated with the administration of the scrap tire provisions of this chapter and rules adopted under them. Each license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director of environmental protection, as appropriate, within thirty days after the issuance of the license.

(F) The board of health shall retain fifteen thousand dollars of each license fee collected by the board under division (B) of this section, or the entire amount of any such fee that is less than fifteen thousand dollars, and the entire amount of each license fee collected by the board under divisions (A), (C), and (D) of this section. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the scrap tire provisions of this chapter and rules adopted under them. The remainder, if any, of each license fee collected by the board under division (B) of this section shall be transmitted to the director within forty-five days after receipt of the fee.

(G) The director shall transmit the moneys received by the director from license fees collected under division (B) of this section to the treasurer of state to be credited to the scrap tire management fund, which is hereby created in the state treasury. The fund shall consist of all federal moneys received by the environmental protection agency for the scrap tire management program; all grants, gifts, and contributions made to the director for that program; and all other moneys that may be provided by law for that program. The director shall use moneys in the fund as follows:

(1) Expend amounts determined necessary by the director to implement,

administer, and enforce the scrap tire provisions of this chapter and rules adopted under them;

(2) During each fiscal year, request the director of budget and management to, and the director of budget and management shall, transfer one million dollars to the scrap tire grant fund created in section ~~1502.12~~ 3734.822 of the Revised Code for supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes. In addition, during a fiscal year, the director of environmental protection may request the director of budget and management to, and the director of budget and management shall, transfer up to an additional five hundred thousand dollars to the scrap tire grant fund for scrap tire amnesty events and scrap tire cleanup events.

(3) After the expenditures and transfers are made under divisions (G)(1) and (2) of this section, expend the balance of the money in the scrap tire management fund remaining in each fiscal year to conduct removal actions under section 3734.85 of the Revised Code and to provide grants to boards of health under section 3734.042 of the Revised Code.

Sec. ~~1502.12~~ 3734.822. (A) There is hereby created in the state treasury the scrap tire grant fund, consisting of moneys transferred to the fund under section 3734.82 of the Revised Code. The ~~chief of the division of recycling and litter prevention, with the approval of the director of natural resources,~~ environmental protection may make grants from the fund for the following purposes:

(1) Supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes;

(2) Supporting scrap tire amnesty and cleanup events sponsored by solid waste management districts.

Grants awarded under division (A)(1) of this section may be awarded to individuals, businesses, and entities certified under division (A) of section ~~1502.04~~ 3736.04 of the Revised Code.

(B) Projects and activities that are eligible for grants under division (A)(1) of this section shall be evaluated for funding using, at a minimum, the following criteria:

(1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;

(2) The degree of local financial support for a proposed project;

(3) The technical merit and quality of a proposed project.

Sec. 3735.37. A metropolitan housing authority shall keep an accurate account of all its activities and of all receipts and expenditures and make an

annual report ~~thereof to the director of development~~ of these publicly available. All moneys received in excess of operating expenditures shall be devoted to the payment of interest and sinking fund charges for the retirement of indebtedness, whether secured by mortgage or otherwise, and from the excess there shall be set aside such fund as the authority deems proper for the purpose of covering repairs, depreciation, and reserves. Whatever balance then remains shall be applied to the reduction of rentals thereafter falling due.

Sec. ~~1502.01~~ 3736.01. As used in this chapter:

(A) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature thrown, dropped, discarded, placed, or deposited by a person on public property, on private property not owned by the person, or in or on waters of the state unless one of the following applies:

(1) The person has been directed to do so by a public official as part of a litter collection drive.

(2) The person has thrown, dropped, discarded, placed, or deposited the material in a receptacle in a manner that prevented its being carried away by the elements.

(3) The person has been issued a permit or license covering the material pursuant to Chapter 3734. or 6111. of the Revised Code.

(B) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and reusing the materials.

(C) "Agency of the state" includes, but is not limited to, an "agency" subject to Chapter 119. of the Revised Code and a "state university or college" as defined in section 3345.12 of the Revised Code.

(D) "Source reduction" means activities that decrease the initial production of waste materials at their point of origin.

(E) "Enterprise" means a business with its principal place of business in this state and that proposes to engage in research and development or recycling in this state.

(F) "Research and development" means inquiry, experimentation, or demonstration to advance basic scientific or technical knowledge or the application, adaptation, or use of existing or newly discovered scientific or technical knowledge regarding recycling, source reduction, or litter prevention.

(G) "Recyclables" means waste materials that are collected, separated, or processed and used as raw materials or products.

(H) "Recycling market development" means activities that stimulate the demand for recycled products, provide for a consistent supply of recyclables to meet the needs of recycling industries, or both.

(I) "Solid waste management districts" means solid waste management districts established under Chapter 343. of the Revised Code.

(J) "Synthetic rubber" means produced or extended rubber and products made from a synthetic rubber base material originating from petrochemical feedstocks, including scrap tires, tire molds, automobile engine belts, brake pads and hoses, weather stripping, fittings, electrical insulation, and other molded objects and parts.

~~Sec. 1502.03~~ 3736.02. (A) ~~The chief director of the division of recycling and litter prevention~~ environmental protection shall establish and implement statewide source reduction, recycling, recycling market development, and litter prevention programs that are consistent with the state solid waste management plan adopted under section 3734.50 of the Revised Code. The programs shall include all of the following:

(1) The assessment of waste generation within the state and implementation of source reduction practices;

(2) The implementation of recycling and recycling market development activities and projects, including all of the following:

(a) Collection of recyclables;

(b) Separation of recyclables;

(c) Processing of recyclables;

(d) Facilitation and encouragement of the use of recyclables and products made with recyclables;

(e) Education and training concerning recycling and products manufactured with recyclables;

(f) Public awareness campaigns to promote recycling;

(g) Other activities and projects that promote recycling and recycling market development.

(3) Litter prevention assistance to enforce antilitter laws, educate the public, and stimulate collection and containment of litter;

(4) Research and development regarding source reduction, recycling, and litter prevention, including, without limitation, research and development regarding materials or products manufactured with recyclables.

(B) ~~The chief, with the approval of the director of natural resources,~~ may enter into contracts or other agreements and may execute any instruments necessary or incidental to the discharge of the ~~chief's~~ director's responsibilities under this chapter.

~~Sec. 1502.02~~ 3736.03. (A) ~~There is hereby created in the department of~~

~~natural resources the division of recycling and litter prevention to be headed by the chief of recycling and litter prevention.~~

(B) There is hereby created in the state treasury the recycling and litter prevention fund, consisting of moneys distributed to it from fees, including the fee levied under division (A)(2) of section 3714.073 of the Revised Code, gifts, donations, grants, reimbursements, and other sources, including investment earnings.

~~(C)(B)~~ The chief director of recycling and litter prevention environmental protection shall do all of the following:

(1) Use moneys credited to the fund exclusively for the purposes set forth in sections ~~4502.03~~ 3736.02, ~~4502.04~~ 3736.04, 3736.05, and ~~4502.05~~ 3745.014 of the Revised Code, with particular emphasis on programs relating to recycling;

(2) ~~Expend for administration of the division not more than ten per cent of any fiscal year's appropriation to the division, excluding the amount assessed to the division for direct and indirect central support charges;~~

(3) Require recipients of grants under section ~~4502.05~~ 3736.05 of the Revised Code, as a condition of receiving and retaining them, to do all of the following:

(a) Create a separate account for the grants and any cash donations received that qualify for the donor credit allowed by section 5733.064 of the Revised Code;

(b) Make expenditures from the account exclusively for the purposes for which the grants were received;

(c) Use any auditing and accounting practices the chief director considers necessary regarding the account;

(d) Report to the chief director information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code;

(e) Use grants received to supplement and not to replace any existing funding for such purposes.

~~(4)(3)~~ Report to the tax commissioner information the chief director receives pursuant to division ~~(C)(3)(B)(2)(d)~~ of this section.

Sec. ~~4502.04~~ 3736.04. There is hereby created within the ~~division of recycling and litter prevention~~ environmental protection agency the recycling and litter prevention advisory council consisting of thirteen members. The speaker of the house of representatives shall appoint one member of the house of representatives to the council, and the president of the senate shall appoint one member of the senate to the council. If the president of the senate belongs to the same political party as the speaker of

the house of representatives, the president shall appoint a member of the senate who belongs to a different political party as recommended by the minority leader of the senate. ~~The speaker of the house of representatives and the president of the senate shall make their initial appointments to the council within sixty days after July 20, 1994.~~ Each member appointed by the speaker of the house of representatives or the president of the senate shall serve for a term of office of three years. The appropriate appointing authority may fill any vacancy occurring during the term of any member whom the appointing authority has appointed to the advisory council.

The remaining eleven members shall be appointed by the governor with the advice and consent of the senate and shall be persons with knowledge of or experience in recycling or litter prevention programs. The council shall have broad-based representation of interests including agriculture, labor, the environment, manufacturing, wholesale and retail industry, and the public. One of the business members shall be from the commercial recycling industry, and another shall be from an industry required to pay taxes under section 5733.065 of the Revised Code. The director of ~~natural resources~~ environmental protection shall not be a member of the council. ~~The governor shall make initial appointments to the council within thirty days after October 20, 1987. Of the governor's initial appointments to the council, five shall be for a term of one year, and six shall be for a term of two years. Thereafter, terms~~ Terms of office shall be for three years. Each member appointed by the governor shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In the event of death, removal, resignation, or incapacity of a member of the council appointed by the governor, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor at any time may remove any of the governor's appointees from the council for misfeasance, nonfeasance, or malfeasance in office.

Members of the council may be reappointed.

The council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the behest of the chairperson or a majority of the members. The council annually shall select from among its members a chairperson, a vice-chairperson, and a secretary to keep a record of its proceedings.

A majority vote of the members of the council is necessary to take

action ~~in~~ on any matter.

A member of the council shall serve without compensation for attending council meetings, but shall be reimbursed for all traveling, hotel, and other ordinary and necessary expenses incurred in the performance of the member's work as a member of the council.

Membership on the council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

The council shall do all of the following:

(A) ~~In conjunction with the chief of recycling and litter prevention and with~~ With the approval of the director of ~~natural resources~~ environmental protection, establish criteria by which to certify, and certify, agencies of the state, municipal corporations with a population of more than fifty thousand, counties, and solid waste management districts as eligible to receive grants under section ~~1502.05~~ 3736.05 of the Revised Code;

(B) ~~In conjunction with the chief and with~~ With the approval of the director, establish criteria by which to certify, and certify, political subdivisions for receipt of special grants for activities or projects that are intended to accomplish the purposes of any of the programs established under section ~~1502.03~~ 3736.02 of the Revised Code;

(C) Advise the ~~chief~~ director in carrying out the ~~chiefs~~ director's duties under this chapter.

Sec. ~~1502.05~~ 3736.05. (A) The ~~chief director~~ of ~~recycling and litter prevention~~ environmental protection, pursuant to division (A) of section ~~1502.04~~ 3736.04 of the Revised Code ~~and with the approval of the director of natural resources~~, may make grants from the recycling and litter prevention fund created in section ~~1502.02~~ 3736.03 of the Revised Code to accomplish the purposes of the programs established under section ~~1502.03~~ 3736.02 of the Revised Code.

(B) Except as provided in division (C) of this section, ~~the chief, with the approval of the director,~~ may require any eligible applicant certified by the recycling and litter prevention advisory council under division (A) of section ~~1502.04~~ 3736.04 of the Revised Code that applies for a grant for an activity or project that is intended to further the purposes of any program established under division (A)(1), (2), or (4) of section ~~1502.03~~ 3736.02 of the Revised Code to provide a matching contribution of not more than fifty per cent of the grant.

(C) Notwithstanding division (B) of this section, any grant awarded under division (A) of this section to foster cooperative research and

development regarding recycling or the cooperative establishment or expansion of private recycling facilities or programs shall be made in conjunction with a contribution to the project by a cooperating enterprise that maintains or proposes to maintain a relevant research and development or recycling facility or program in this state or by an agency of the state, provided that funding provided by a state agency shall not be provided from general revenue funds appropriated by the general assembly. No grant made under division (A) of this section for the purposes described in this division shall exceed the contribution made by the cooperating enterprise or state agency. The ~~chief~~ director may consider cooperating contributions in the form of state of the art new equipment or in other forms if the ~~chief~~ director determines that the contribution is essential to the successful implementation of the project.

Grants made under division (A) of this section for the purposes described in this division shall be made in such form and conditioned on such terms as the ~~chief~~ director considers to be appropriate.

(D)(1) The ~~chief, with the approval of the director;~~ may require any eligible applicant certified by the recycling and litter prevention advisory council under division (A) of section ~~1502.04~~ 3736.04 of the Revised Code that applies for a grant that is intended to further the purposes of the program established under division (A)(3) of section ~~1502.03~~ 3736.02 of the Revised Code, except any eligible applicant that is or is located in a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state as determined by the ~~chief~~ director using the most recently available figures from the United States census bureau, to provide a matching contribution as follows:

(a) Up to ten per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above ninety per cent of the median county per capita income of the state, but equal to or below one hundred per cent of the median county per capita income of the state;

(b) Up to twenty per cent of the grant from any eligible applicant that is or is located in a county that has a per capita income above the median county per capita income of the state.

(2) If the eligible applicant is a joint solid waste management district or is filing a joint application on behalf of two or more counties, the matching contribution required under division (D)(1) of this section shall be the average of the matching contributions of all of the counties covered by the application as determined in accordance with that division. The matching contribution of a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state shall be

included as zero in calculating the average matching contribution.

(E) ~~After receiving notice from the~~ The director of environmental protection that each county within the state is subject to the solid waste management plan of a solid waste management district, the chief shall ensure that not less than fifty per cent of the moneys distributed as grants under this section shall be expended for the purposes of recycling and recycling market development.

(F) No information that is submitted to, acquired by, or exchanged with employees of the environmental protection agency who administer or provide services under this section and that is submitted, acquired, or exchanged in order to obtain a grant pursuant to division (A) of this section shall be used in any manner for the purpose of the enforcement of any requirement established in an environmental law or used as evidence in any judicial or administrative enforcement proceeding unless that information reveals a clear and immediate danger to the environment or to the health, safety, or welfare of the public.

(G) Nothing in this section confers immunity on persons from enforcement that is based on information that is obtained by the director or the director's authorized representatives who are not employees of the agency who administer or provide services under this section.

(H) As used in this section, "environmental law" means a law that is administered by the environmental protection agency.

Sec. ~~1502.06~~ 3736.06. (A) Agencies of the state certified pursuant to section ~~1502.04~~ 3736.04 of the Revised Code as eligible to receive a grant shall designate an employee as the liaison with the ~~chief~~ director of ~~recycling and litter prevention~~ environmental protection to cooperate with ~~him~~ the director in carrying out ~~his~~ the director's duties under this chapter.

(B) The executive and legislative authorities of municipal corporations, counties, and townships and the boards of park commissioners of township park districts created under section 511.18 of the Revised Code, boards of park commissioners of park districts created under section 1545.04 of the Revised Code, and boards of education of city, exempted village, local, and joint vocational school districts may participate in the programs established under section ~~1502.03~~ 3736.02 of the Revised Code.

Sec. ~~1502.07~~ 3736.07. No person, agency of the state, municipal corporation, county, or township shall sell or offer for sale any beer or mixed beverages as defined in section 4301.01 of the Revised Code, or any soft drink as defined in section 913.22 of the Revised Code, in a metal container that is so designed that it may be opened by removing from the container a part of the container without using a separate opener. However,

nothing in this section prohibits the sale or offering for sale of a container the only detachable part of which is a piece of tape or other similar adhesive material.

Sec. ~~1502.99~~ 3736.99. Whoever violates section ~~1502.07~~ 3736.07 of the Revised Code is guilty of a minor misdemeanor. Each day of violation constitutes a separate offense.

Sec. 3737.83. The fire marshal shall, as part of the state fire code, adopt rules to:

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;

(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment;

(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt.

(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards.

In any case where the federal government or any department or agency thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards.

With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code.

(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers and in type A family day-care homes, as defined in section 5104.01 of the Revised Code.

(F) Establish minimum standards for fire prevention and safety ~~an adult group home seeking licensure as an adult care in a residential facility must meet~~ licensed under section ~~5119.74~~ 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three

to sixteen unrelated adults. The fire marshal shall adopt the rules under this division in consultation with the ~~directors~~ director of mental health ~~and aging~~ and interested parties designated by the ~~directors~~ director of mental health ~~and aging~~.

Sec. 3737.841. As used in this section and section 3737.842 of the Revised Code:

(A) "Public occupancy" means all of the following:

(1) Any state correctional institution as defined in section 2967.01 of the Revised Code and any county, multicounty, municipal, or municipal-county jail or workhouse;

(2) Any hospital as defined in section 3727.01 of the Revised Code, any hospital licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department of mental health under Chapter 5119. of the Revised Code;

(3) Any nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code and any ~~adult-care residential~~ facility as defined in licensed under section 5119.70 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;

(4) Any child day-care center and any type A family day-care home as defined in section 5104.01 of the Revised Code;

(5) Any public auditorium or stadium;

(6) Public assembly areas of hotels and motels containing more than ten articles of seating furniture.

(B) "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess for sale, or dispose of in any other commercial manner.

(C) Except as provided in division (D) of this section, "seating furniture" means any article of furniture, including children's furniture, that can be used as a support for an individual, or an individual's limbs or feet, when sitting or resting in an upright or reclining position and that either:

(1) Is made with loose or attached cushions or pillows;

(2) Is stuffed or filled in whole or in part with any filling material;

(3) Is or can be stuffed or filled in whole or in part with any substance or material, concealed by fabric or any other covering.

"Seating furniture" includes the cushions or pillows belonging to or forming a part of the furniture, the structural unit, and the filling material and its container or covering.

(D) "Seating furniture" does not include, except if intended for use by

children or in facilities designed for the care or treatment of humans, any of the following:

- (1) Cushions or pads intended solely for outdoor use;
- (2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;
- (3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.

(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or artificial material or substance that is used or can be used as stuffing in seating furniture.

Sec. 3742.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

(B) "Child care facility" means each area of any of the following in which child care, as defined in section 5104.01 of the Revised Code, is provided to children under six years of age:

(1) A child day-care center, type A family day-care home, or type B family day-care home as defined in section 5104.01 of the Revised Code;

(2) A type C family day-care home authorized to provide child care by Sub. H.B. 62 of the 121st general assembly, as amended by Am. Sub. S.B. 160 of the 121st general assembly and Sub. H.B. 407 of the 123rd general assembly;

(3) A preschool program or school child program as defined in section 3301.52 of the Revised Code.

(C) "Clearance examination" means an examination to determine whether the lead hazards in a residential unit, child care facility, or school have been sufficiently controlled. A clearance examination includes a visual assessment, collection, and analysis of environmental samples.

(D) "Clearance technician" means a person, other than a licensed lead inspector or licensed lead risk assessor, who performs a clearance examination.

(E) "Clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human beings. "Clinical

laboratory" does not include a facility that only collects or prepares specimens, or serves as a mailing service, and does not perform testing.

(F) "Encapsulation" means the coating and sealing of surfaces with durable surface coating specifically formulated to be elastic, able to withstand sharp and blunt impacts, long-lasting, and resilient, while also resistant to cracking, peeling, algae, fungus, and ultraviolet light, so as to prevent any part of lead-containing paint from becoming part of house dust or otherwise accessible to children.

(G) "Enclosure" means the resurfacing or covering of surfaces with durable materials such as wallboard or paneling, and the sealing or caulking of edges and joints, so as to prevent or control chalking, flaking, peeling, scaling, or loose lead-containing substances from becoming part of house dust or otherwise accessible to children.

(H) "Environmental lead analytical laboratory" means a facility that analyzes air, dust, soil, water, paint, film, or other substances, other than substances derived from the human body, for the presence and concentration of lead.

(I) "HEPA" means the designation given to a product, device, or system that has been equipped with a high-efficiency particulate air filter, which is a filter capable of removing particles of 0.3 microns or larger from air at 99.97 per cent or greater efficiency.

(J) "Interim controls" means a set of measures designed to reduce temporarily human exposure or likely human exposure to lead hazards. Interim controls include specialized cleaning, repairs, painting, temporary containment, ongoing lead hazard maintenance activities, and the establishment and operation of management and resident education programs.

(K)(1) "Lead abatement" means a measure or set of measures designed for the single purpose of permanently eliminating lead hazards. "Lead abatement" includes all of the following:

- (a) Removal of lead-based paint and lead-contaminated dust;
- (b) Permanent enclosure or encapsulation of lead-based paint;
- (c) Replacement of surfaces or fixtures painted with lead-based paint;
- (d) Removal or permanent covering of lead-contaminated soil;
- (e) Preparation, cleanup, and disposal activities associated with lead abatement.

(2) "Lead abatement" does not include any of the following:

- (a) Preventive treatments performed pursuant to section 3742.41 of the Revised Code;
- (b) Implementation of interim controls;

(c) Activities performed by a property owner on a residential unit to which both of the following apply:

(i) It is a freestanding single-family home used as the property owner's private residence.

(ii) No child under six years of age who has lead poisoning resides in the unit.

(L) "Lead abatement contractor" means any individual who engages in or intends to engage in lead abatement and employs or supervises one or more lead abatement workers, including on-site supervision of lead abatement projects, or prepares specifications, plans, or documents for a lead abatement project.

(M) "Lead abatement project" means one or more lead abatement activities that are conducted by a lead abatement contractor and are reasonably related to each other.

(N) "Lead abatement project designer" means a person who is responsible for designing lead abatement projects and preparing a pre-abatement plan for all designed projects.

(O) "Lead abatement worker" means an individual who is responsible in a nonsupervisory capacity for the performance of lead abatement.

(P) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health, as that level is established by rule of the public health council in rules adopted under section 3742.50 of the Revised Code.

(Q) "Lead-contaminated dust" means dust that contains an area or mass concentration of lead at or in excess of the level that is hazardous to human health, as that level is established by rule of the public health council in rules adopted under section 3742.50 of the Revised Code.

(R) "Lead-contaminated soil" means soil that contains lead at or in excess of the level that is hazardous to human health, as that level is established by rule of the public health council in rules adopted under section 3742.50 of the Revised Code.

(S) "Lead hazard" means material that is likely to cause lead exposure and endanger an individual's health as determined by the public director of health council in rules adopted under section 3742.50 of the Revised Code. "Lead hazard" includes lead-based paint, lead-contaminated dust, lead-contaminated soil, and lead-contaminated water pipes.

(T) "Lead inspection" means a surface-by-surface investigation to determine the presence of lead-based paint. The inspection shall use a sampling or testing technique approved by the public health council director in rules adopted ~~by the council~~ under section 3742.03 of the Revised Code.

A licensed lead inspector or laboratory approved under section 3742.09 of the Revised Code shall certify in writing the precise results of the inspection.

(U) "Lead inspector" means any individual who conducts a lead inspection, provides professional advice regarding a lead inspection, or prepares a report explaining the results of a lead inspection.

(V) "Lead poisoning" means the level of lead in human blood that is hazardous to human health, as specified in rules adopted under section 3742.50 of the Revised Code.

(W) "Lead risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of lead hazards in a residential unit, child care facility, or school, including information gathering from the unit, facility, or school's current owner's knowledge regarding the age and painting history of the unit, facility, or school and occupancy by children under six years of age, visual inspection, limited wipe sampling or other environmental sampling techniques, and any other activity as may be appropriate.

(X) "Lead risk assessor" means a person who is responsible for developing a written inspection, risk assessment, and analysis plan; conducting inspections for lead hazards in a residential unit, child care facility, or school; interpreting results of inspections and risk assessments; identifying hazard control strategies to reduce or eliminate lead exposures; and completing a risk assessment report.

(Y) "Lead-safe renovation" means the supervision or performance of services for the general improvement of all or part of an existing structure, including a residential unit, child care facility, or school, when the services are supervised or performed by a lead-safe renovator.

(Z) "Lead-safe renovator" means a person who has successfully completed a training program in lead-safe renovation approved under section 3742.47 of the Revised Code.

(AA) "Manager" means a person, who may be the same person as the owner, responsible for the daily operation of a residential unit, child care facility, or school.

(BB) "Permanent" means an expected design life of at least twenty years.

(CC) "Replacement" means an activity that entails removing components such as windows, doors, and trim that have lead hazards on their surfaces and installing components free of lead hazards.

(DD) "Residential unit" means a dwelling or any part of a building being used as an individual's private residence.

(EE) "School" means a public or nonpublic school in which children under six years of age receive education.

Sec. 3742.02. (A) No person shall do any of the following:

(1) Violate any provision of this chapter or the rules adopted pursuant to it;

(2) Apply or cause to be applied any lead-based paint on or inside a residential unit, child care facility, or school, unless the ~~public~~ director of health council has determined by rule under section 3742.50 of the Revised Code that no suitable substitute exists;

(3) Interfere with an investigation conducted by the director of health or a board of health in accordance with section 3742.35 of the Revised Code.

(B) No person shall knowingly authorize or employ an individual to perform lead abatement on a residential unit, child care facility, or school unless the individual who will perform the lead abatement holds a valid license issued under section 3742.05 of the Revised Code.

(C) No person shall do any of the following when a residential unit, child care facility, or school is involved:

(1) Perform a lead inspection without a valid lead inspector license issued under section 3742.05 of the Revised Code;

(2) Perform a lead risk assessment or provide professional advice regarding lead abatement without a valid lead risk assessor license issued under section 3742.05 of the Revised Code;

(3) Act as a lead abatement contractor without a valid lead abatement contractor's license issued under section 3742.05 of the Revised Code;

(4) Act as a lead abatement project designer without a valid lead abatement project designer license issued under section 3742.05 of the Revised Code;

(5) Perform lead abatement without a valid lead abatement worker license issued under section 3742.05 of the Revised Code;

(6) Effective one year after April 7, 2003, perform a clearance examination without a valid clearance technician license issued under section 3742.05 of the Revised Code, unless the person holds a valid lead inspector license or valid lead risk assessor license issued under that section;

(7) Perform lead training for the licensing purposes of this chapter without a valid approval from the director of health under section 3742.08 of the Revised Code;

(8) Perform interim controls without complying with 24 C.F.R. Part 35.

Sec. 3742.03. The ~~public~~ director of health council shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration and enforcement of sections 3742.01 to 3742.19 and 3742.99 of the Revised

Code. The rules shall specify all of the following:

(A) Procedures to be followed by a lead abatement contractor, lead abatement project designer, lead abatement worker, lead inspector, or lead risk assessor licensed under section 3742.05 of the Revised Code for undertaking lead abatement activities and procedures to be followed by a clearance technician, lead inspector, or lead risk assessor in performing a clearance examination;

(B)(1) Requirements for training and licensure, in addition to those established under section 3742.08 of the Revised Code, to include levels of training and periodic refresher training for each class of worker, and to be used for licensure under section 3742.05 of the Revised Code. Except in the case of clearance technicians, these requirements shall include at least twenty-four classroom hours of training based on the Occupational Safety and Health Act training program for lead set forth in 29 C.F.R. 1926.62. For clearance technicians, the training requirements to obtain an initial license shall not exceed six hours and the requirements for refresher training shall not exceed two hours every four years. In establishing the training and licensure requirements, the ~~public health council~~ director shall consider the core of information that is needed by all licensed persons, and establish the training requirements so that persons who would seek licenses in more than one area would not have to take duplicative course work.

(2) Persons certified by the American board of industrial hygiene as a certified industrial hygienist or as an industrial hygienist-in-training, and persons registered as a sanitarian or sanitarian-in-training under Chapter 4736. of the Revised Code, shall be exempt from any training requirements for initial licensure established under this chapter, but shall be required to take any examinations for licensure required under section 3742.05 of the Revised Code.

(C) Fees for licenses issued under section 3742.05 of the Revised Code and for their renewal;

(D) Procedures to be followed by lead inspectors, lead abatement contractors, environmental lead analytical laboratories, lead risk assessors, lead abatement project designers, and lead abatement workers to prevent public exposure to lead hazards and ensure worker protection during lead abatement projects;

(E)(1) Record-keeping and reporting requirements for clinical laboratories, environmental lead analytical laboratories, lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, and lead abatement workers for lead abatement projects and record-keeping and reporting requirements for clinical laboratories, environmental lead

analytical laboratories, and clearance technicians for clearance examinations;

(2) Record-keeping and reporting requirements regarding lead poisoning for physicians, in addition to the requirements of section 3701.25 of the Revised Code;

(3) Information that is required to be reported under rules based on divisions (E)(1) and (2) of this section and that is a medical record is not a public record under section 149.43 of the Revised Code and shall not be released, except in aggregate statistical form.

(F) Environmental sampling techniques for use in collecting samples of air, water, dust, paint, and other materials;

(G) Requirements for a respiratory protection plan prepared in accordance with section 3742.07 of the Revised Code;

(H) Requirements under which a manufacturer of encapsulants must demonstrate evidence of the safety and durability of its encapsulants by providing results of testing from an independent laboratory indicating that the encapsulants meet the standards developed by the "E06.23.30 task group on encapsulants," which is the task group of the lead hazards associated with buildings subcommittee of the performance of buildings committee of the American society for testing and materials.

Sec. 3742.04. (A) The director of health shall do all of the following:

(1) Administer and enforce the requirements of sections 3742.01 to 3742.19 and 3742.99 of the Revised Code and the rules adopted pursuant to those sections;

(2) Examine records and reports submitted by lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, lead abatement workers, and clearance technicians in accordance with section 3742.05 of the Revised Code to determine whether the requirements of this chapter are being met;

(3) Examine records and reports submitted by physicians, clinical laboratories, and environmental lead analytical laboratories under section 3701.25 or 3742.09 of the Revised Code;

(4) Issue approval to manufacturers of encapsulants that have done all of the following:

(a) Submitted an application for approval to the director on a form prescribed by the director;

(b) Paid the application fee established by the director;

(c) Submitted results from an independent laboratory indicating that the manufacturer's encapsulants satisfy the requirements established in rules adopted under division (H) of section 3742.03 of the Revised Code;

(d) Complied with rules adopted by the ~~public health council~~ director regarding durability and safety to workers and residents.

(5) Establish liaisons and cooperate with the directors or agencies in states having lead abatement, licensing, accreditation, certification, and approval programs to promote consistency between the requirements of this chapter and those of other states in order to facilitate reciprocity of the programs among states;

(6) Establish a program to monitor and audit the quality of work of lead inspectors, lead risk assessors, lead abatement project designers, lead abatement contractors, lead abatement workers, and clearance technicians. The director may refer improper work discovered through the program to the attorney general for appropriate action.

(B) In addition to any other authority granted by this chapter, the director of health may do any of the following:

(1) Employ persons who have received training from a program the director has determined provides the necessary background. The appropriate training may be obtained in a state that has an ongoing lead abatement program under which it conducts educational programs.

(2) Cooperate with the United States environmental protection agency in any joint oversight procedures the agency may propose for laboratories that offer lead analysis services and are accredited under the agency's laboratory accreditation program;

(3) Advise, consult, cooperate with, or enter into contracts or cooperative agreements with any person, government entity, interstate agency, or the federal government as the director considers necessary to fulfill the requirements of this chapter and the rules adopted under it.

Sec. 3742.05. (A)(1) The director of health shall issue lead inspector, lead abatement contractor, lead risk assessor, lead abatement project designer, lead abatement worker, and clearance technician licenses. The director shall issue a license to an applicant who meets all of the following requirements:

(a) Submits an application to the director on a form prescribed by the director;

(b) Meets the licensing and training requirements established ~~by the public health council~~ in rules adopted under section 3742.03 of the Revised Code;

(c) Successfully completes the licensing examination for the applicant's area of expertise administered under section 3742.08 of the Revised Code and any training required by the director under that section;

(d) Pays the license fee established ~~by the public health council~~ in rules

adopted under section 3742.03 of the Revised Code;

(e) Provides the applicant's social security number and any information the director may require to demonstrate the applicant's compliance with this chapter and the rules adopted under it.

(2) An individual may hold more than one license issued under this section, but a separate application is required for each license.

(B) A license issued under this section expires two years after the date of issuance. The director shall renew a license in accordance with the standard renewal procedure set forth in Chapter 4745. of the Revised Code, if the licensee does all of the following:

(1) Continues to meet the requirements of division (A) of this section;

(2) Demonstrates compliance with procedures to prevent public exposure to lead hazards and for worker protection during lead abatement projects established ~~by rule~~ in rules ~~adopted by the public health council~~ under section 3742.03 of the Revised Code;

(3) Meets the record-keeping and reporting requirements for lead abatement projects or clearance examinations established ~~by rule~~ in rules ~~adopted by the public health council~~ under section 3742.03 of the Revised Code;

(4) Pays the license renewal fee established ~~by rule~~ in rules ~~adopted by the public health council~~ under section 3742.03 of the Revised Code.

(C) An individual licensed, certified, or otherwise approved under the law of another state to perform functions substantially similar to those of a lead inspector, lead abatement contractor, lead risk assessor, lead abatement project designer, lead abatement worker, or clearance technician may apply to the director of health for licensure in accordance with the procedures set forth in division (A) of this section. The director shall license an individual under this division on a determination that the standards for licensure, certification, or approval in that state are at least substantially equivalent to those established by this chapter and the rules adopted under it. The director may require an examination for licensure under this division.

Sec. 3742.30. Each child at risk of lead poisoning shall undergo a blood lead screening test to determine whether the child has lead poisoning. The at-risk children shall undergo the test at times determined by rules the ~~public health council~~ director of health shall adopt in accordance with Chapter 119. of the Revised Code that are consistent with the guidelines established by the centers for disease control and prevention in the public health service of the United States department of health and human services. The rules shall specify which children are at risk of lead poisoning.

Neither this section nor the rules adopted under it affect the coverage of

blood lead screening tests by any publicly funded health program, including the medicaid program established by Chapter 5111. of the Revised Code. Neither this section nor the rules adopted under it apply to a child if a parent of the child objects to the test on the grounds that the test conflicts with the parent's religious tenets and practices.

Sec. 3742.31. (A) The director of health shall establish, promote, and maintain a child lead poisoning prevention program. The program shall provide statewide coordination of screening, diagnosis, and treatment services for children under age six, including both of the following:

(1) Collecting the social security numbers of all children screened, diagnosed, or treated as part of the program's case management system;

(2) Disclosing to the office of ~~Ohio health plans~~ medical assistance in the department of job and family services on at least an annual basis the identity and lead screening test results of each child screened pursuant to section 3742.30 of the Revised Code. The director shall collect and disseminate information relating to child lead poisoning and controlling lead hazards.

(B) The director of health shall operate the child lead poisoning prevention program in accordance with rules adopted under section 3742.50 of the Revised Code. The director may enter into an interagency agreement with one or more other state agencies to perform one or more of the program's duties. The director shall supervise and direct an agency's performance of such a duty.

Sec. 3742.32. (A) The director of health shall appoint an advisory council to assist in the ongoing development and implementation of the child lead poisoning prevention program created under section 3742.31 of the Revised Code. The advisory council shall consist of the following members:

(1) A representative of the office of ~~Ohio health plans~~ medical assistance in the department of job and family services;

(2) A representative of the bureau of child care in the department of job and family services;

(3) A representative of the department of environmental protection;

(4) A representative of the department of education;

(5) A representative of the department of development;

(6) A representative of the Ohio apartment owner's association;

(7) A representative of the Ohio help end lead poisoning coalition;

(8) A representative of the Ohio environmental health association;

(9) An Ohio representative of the national paint and coatings association.

(B) The advisory council shall do both of the following:

(1) Provide the director with advice regarding the policies the child lead poisoning prevention program should emphasize, preferred methods of financing the program, and any other matter relevant to the program's operation;

(2) Submit a report of the state's activities to the governor, president of the senate, and speaker of the house of representatives on or before the first day of March each year.

(C) The advisory council is not subject to sections 101.82 to 101.87 of the Revised Code.

Sec. 3742.47. (A) A person seeking approval of a training program in either essential maintenance practices or lead-safe renovation shall apply for approval to the director of health. The application shall be made on a form prescribed by the director and shall include the fee established under division (B) of this section. The director shall issue approval to the applicant if the applicant demonstrates to the satisfaction of the director that the training program will meet the following requirements and any other training program requirements established by rules adopted under section 3742.50 of the Revised Code:

(1) Conducts the training program in a period of time that does not exceed six hours;

(2) Administers an examination established by rule of the ~~public health council~~ director at the end of the training program to each person who completes the training;

(3) Grades each examination not later than one week after its completion and determines whether the person who took the examination received a passing score;

(4) Not later than one week after the examination is completed provides written proof of training program completion to each person who completes the program and passes the examination.

(B) The director of health shall establish an application fee for approving training programs under this section. The fee shall be reasonable and shall not exceed the expenses incurred in conducting the approval of training programs. An application fee submitted under division (A) of this section is nonrefundable.

Sec. 3742.50. (A) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

(1) Procedures necessary for the development and operation of the child lead poisoning prevention program established under section 3742.31 of the

Revised Code;

(2) Standards and procedures for conducting investigations and risk assessments under sections 3742.35 and 3742.36 of the Revised Code;

(3) Standards and procedures for issuing lead hazard control orders under section 3742.37 of the Revised Code, including standards and procedures for determining appropriate deadlines for complying with lead hazard control orders;

(4) The level of lead in human blood that is hazardous to human health, consistent with the guidelines issued by the centers for disease control and prevention in the public health service of the United States department of health and human services;

(5) The level of lead in paint, dust, and soil that is hazardous to human health;

(6) Standards and procedures to be followed when implementing preventive treatments for the control of lead hazards pursuant to section 3742.41 of the Revised Code that are based on information from the United States environmental protection agency, department of housing and urban development, occupational safety and health administration, or other agencies with recommendations or guidelines regarding implementation of preventive treatments;

(7) Standards that must be met to pass a clearance examination;

(8) Procedures for approving under section 3742.47 of the Revised Code training programs in essential maintenance practices and lead-safe renovation and requirements, in addition to those specified in section 3742.47 of the Revised Code, that a program must meet to receive approval;

(9) The examination to be administered by a training program approved under section 3742.47 of the Revised Code and the examination's passing score.

(B) The ~~public health council~~ director shall establish procedures for revising its rules to ensure that the child lead poisoning prevention activities conducted under this chapter continue to meet the requirements necessary to obtain any federal funding available for those activities, including requirements established by the United States environmental protection agency, United States department of housing and urban development, or any other federal agency with jurisdiction over activities pertaining to child lead poisoning prevention.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The state fire marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks

at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 3743.02 of the Revised Code. The state fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer shall notify the state fire marshal in writing. The state fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks, if the state fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks.

Upon receipt of the notification and additional documentation required by the state fire marshal, the state fire marshal shall inspect the premises of the fireworks plant to determine if the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.05 of the Revised Code. The state fire marshal shall issue a written authorization to the manufacturer for the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks if the state fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to those sections and rules. Upon authorizing a change in manufacturing of fireworks to include the processing of fireworks, the state fire marshal shall make notations on the manufacturer's license and in the list of licensed manufacturers in accordance with section 3743.03 of the Revised Code.

On or before June 1, 1998, a licensed manufacturer shall install, in every licensed building in which fireworks are manufactured, stored, or displayed and to which the public has access, interlinked fire detection, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of ~~labor~~ industrial compliance, and shall comply with floor

plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code. Notwithstanding section 3743.59 of the Revised Code, the construction and safety requirements established in this division are not subject to any variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the fireworks plant as described in the application for licensure or in the notification submitted under division (B) of this section, except that a licensed manufacturer shall not engage in the processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale the fireworks manufactured by the manufacturer, to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, also may possess for sale and sell pursuant to division (C)(2) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the state fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, may also possess for sale and sell pursuant to division (C)(3)

of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

A licensed manufacturer of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D) The license of a manufacturer of fireworks shall be protected under glass and posted in a conspicuous place on the premises of the fireworks plant. Except as otherwise provided in this division, the license is not transferable or assignable. A license may be transferred to another person for the same fireworks plant for which the license was issued if the assets of the plant are transferred to that person by inheritance or by a sale approved by the state fire marshal. The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

(E) The state fire marshal shall not place the license of a manufacturer of fireworks in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the state fire marshal by the manufacturer, annually shall attend a continuing education program. The state fire marshal shall develop the program and the state fire marshal or a person or public agency approved by the state fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training as approved by the state fire marshal for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the state fire marshal with notice of the date, time, and place of all in-service training. For any program conducted under this division, the state fire marshal shall, in accordance with rules adopted by the state fire marshal under Chapter 119. of the Revised Code, establish the subjects to be taught, the length of classes, the standards for approval, and time periods for notification by the licensee to the state fire marshal of

any in-service training.

(G) A licensed manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the state fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the state fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The state fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the state fire marshal in accordance with rules the state fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the state fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under

this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or structures, railroads, highways, or any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the state fire marshal pursuant to section 3743.05 of the Revised Code.

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after September 29, 2005.

(f) The state fire marshal approves the application for expansion.

(2) The state fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the state fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the state fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.

(J)(1) A licensee who obtains approval for the use of a storage location in accordance with division (I) of this section shall use the storage location exclusively for the following activities, in accordance with division (C) of this section:

(a) The packaging, assembling, or storing of fireworks, which shall only occur in buildings or structures approved for such hazardous uses by the building code official having jurisdiction for the storage location or, for 1.4G fireworks, in containers or trailers approved for such hazardous uses by the state fire marshal if such containers or trailers are not subject to regulation by the building code adopted in accordance with Chapter 3781. of the Revised Code. All such storage shall be in accordance with the rules adopted by the state fire marshal under division (G) of section 3743.05 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant

to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed manufacturer shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of this section, or pursuant to section 3743.44 or 3743.45 of the Revised Code, at the storage location approved under this section.

(3) A storage location may not be relocated for a minimum period of five years after the storage location is approved by the state fire marshal in accordance with division (I) of this section.

(K) The licensee shall prohibit public access to the storage location. The state fire marshal shall adopt rules to describe the acceptable measures a manufacturer shall use to prohibit access to the storage site.

Sec. 3743.06. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.05 of the Revised Code, licensed manufacturers of fireworks shall operate their fireworks plants in accordance with the following:

(A) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a fireworks plant shall be posted on the premises in a manner determined by the fire marshal.

(B) Reasonable precautions shall be taken to protect the premises of a fireworks plant from trespass, loss, theft, or destruction. Only persons employed by the manufacturer, authorized governmental personnel, and persons who have obtained permission from a member of the manufacturer's office to be on the premises, are to be allowed to enter and remain on the premises.

(C) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a fireworks plant is prohibited, except that a manufacturer may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no manufacturing, handling, sales, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(D) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a manufacturer.

(E) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of the fireworks plant, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(F) A manufacturer shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to the premises of its fireworks plant.

(G) Each fireworks plant shall have at least one class 1 magazine that is approved by the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and that is otherwise in conformity with federal law. This division does not apply to fireworks plants existing on or before August 3, 1931.

(H) Awnings, tents, and canopies shall not be used as facilities for the sale or storage of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(I) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks, nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

(J) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal, that the facility is closed to all public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business as approved by the fire marshal, the licensed manufacturer shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(K) If any fireworks item is removed from its original package or is manufactured with any fuse other than a safety fuse approved by the consumer product safety commission, then the item shall be covered

completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(L) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

- (1) A deputy sheriff;
- (2) A law enforcement officer of a municipal corporation, township, or township or joint police district;
- (3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(M) All doors of all buildings on the licensed premises shall swing outward.

(N) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section ~~4905.83~~ 4923.99 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.19. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.18 of the Revised Code, licensed wholesalers of fireworks shall conduct their business operations in accordance with the following:

(A) A wholesaler shall conduct its business operations from the location described in its application for licensure or in a notification submitted under division (B) of section 3743.17 of the Revised Code.

(B) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a wholesaler shall be posted on the premises as determined by the fire marshal.

(C) Reasonable precautions shall be taken to protect the premises of a wholesaler from trespass, loss, theft, or destruction.

(D) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler is prohibited, except that a wholesaler may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no sales, handling, or

storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(E) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a wholesaler.

(F) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of a wholesaler, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(G) A wholesaler shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to its premises.

(H) Each building used in the sale of fireworks shall be kept open to the public for at least four hours each day between the hours of eight a.m. and five p.m., five days of each week, every week of the year. Upon application from a licensed wholesaler, the fire marshal may waive any of the requirements of this division.

(I) Awnings, tents, or canopies shall not be used as facilities for the storage or sale of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(J) 1.4G fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall. If the licensee installs and properly maintains an early suppression fast response sprinkler system or equivalent fire suppression system as described in the fire code adopted by the fire marshal in accordance with section 3737.82 of the Revised Code throughout the structure, a fire barrier wall may be substituted for a fire wall between the areas to which the public has