

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 505

Representatives Becker, Crossman

Cosponsors: Representatives O'Brien, Dean

A BILL

To amend sections 5119.34, 5123.19, and 5123.196
and to repeal section 5119.341 of the Revised
Code to eliminate the specific authority of
residential facilities to operate within
residential zoning districts.

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

Section 1. That sections 5119.34, 5123.19, and 5123.196 of
the Revised Code be amended to read as follows:

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Sec. 5119.34. (A) As used in this section and ~~sections~~
~~5119.341 and section~~ 5119.342 of the Revised Code:

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(1) "Accommodations" means housing, daily meal
preparation, laundry, housekeeping, arranging for
transportation, social and recreational activities, maintenance,
security, and other services that do not constitute personal
care services or skilled nursing care.

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

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(3) "Adult" means a person who is eighteen years of age or

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older, other than a person described in division (A) (4) of this 18
section who is between eighteen and twenty-one years of age. 19

(4) "Child" means a person who is under eighteen years of 20
age or a person with a mental disability who is under twenty-one 21
years of age. 22

(5) "Community mental health services provider" means a 23
community mental health services provider as defined in section 24
5119.01 of the Revised Code. 25

(6) "Community mental health services" means any mental 26
health services certified by the department pursuant to section 27
5119.36 of the Revised Code. 28

(7) "Operator" means the person or persons, firm, 29
partnership, agency, governing body, association, corporation, 30
or other entity that is responsible for the administration and 31
management of a residential facility and that is the applicant 32
for a residential facility license. 33

(8) "Personal care services" means services including, but 34
not limited to, the following: 35

(a) Assisting residents with activities of daily living; 36

(b) Assisting residents with self-administration of 37
medication in accordance with rules adopted under this section; 38

(c) Preparing special diets, other than complex 39
therapeutic diets, for residents pursuant to the instructions of 40
a physician or a licensed dietitian, in accordance with rules 41
adopted under this section. 42

"Personal care services" does not include "skilled nursing 43
care" as defined in section 3721.01 of the Revised Code. A 44
facility need not provide more than one of the services listed 45

in division (A) (8) of this section to be considered to be 46
providing personal care services. 47

(9) "Room and board" means the provision of sleeping and 48
living space, meals or meal preparation, laundry services, 49
housekeeping services, or any combination thereof. 50

(10) "Residential state supplement program" means the 51
program established under section 5119.41 of the Revised Code. 52

(11) "Supervision" means any of the following: 53

(a) Observing a resident to ensure the resident's health, 54
safety, and welfare while the resident engages in activities of 55
daily living or other activities; 56

(b) Reminding a resident to perform or complete an 57
activity, such as reminding a resident to engage in personal 58
hygiene or other self-care activities; 59

(c) Assisting a resident in making or keeping an 60
appointment. 61

(12) "Unrelated" means that a resident is not related to 62
the owner or operator of a residential facility or to the 63
owner's or operator's spouse as a parent, grandparent, child, 64
stepchild, grandchild, brother, sister, niece, nephew, aunt, or 65
uncle, or as the child of an aunt or uncle. 66

(B) (1) A "residential facility" is a publicly or privately 67
operated home or facility that falls into one of the following 68
categories: 69

(a) Class one facilities provide accommodations, 70
supervision, personal care services, and mental health services 71
for one or more unrelated adults with mental illness or one or 72
more unrelated children or adolescents with severe emotional 73

disturbances; 74

(b) Class two facilities provide accommodations, 75
supervision, and personal care services to any of the following: 76

(i) One or two unrelated persons with mental illness; 77

(ii) One or two unrelated adults who are receiving 78
payments under the residential state supplement program; 79

(iii) Three to sixteen unrelated adults. 80

(c) Class three facilities provide room and board for five 81
or more unrelated adults with mental illness. 82

(2) "Residential facility" does not include any of the 83
following: 84

(a) A hospital subject to licensure under section 5119.33 85
of the Revised Code or an institution maintained, operated, 86
managed, and governed by the department of mental health and 87
addiction services for the hospitalization of mentally ill 88
persons pursuant to section 5119.14 of the Revised Code; 89

(b) A residential facility licensed under section 5123.19 90
of the Revised Code or otherwise regulated by the department of 91
developmental disabilities; 92

(c) An institution or association subject to certification 93
under section 5103.03 of the Revised Code; 94

(d) A facility operated by a hospice care program licensed 95
under section 3712.04 of the Revised Code that is used 96
exclusively for care of hospice patients; 97

(e) A nursing home, residential care facility, or home for 98
the aging as defined in section 3721.02 of the Revised Code; 99

(f) A facility licensed under section 5119.37 of the 100

Revised Code to operate an opioid treatment program; 101

(g) Any facility that receives funding for operating costs 102
from the development services agency under any program 103
established to provide emergency shelter housing or transitional 104
housing for the homeless; 105

(h) A terminal care facility for the homeless that has 106
entered into an agreement with a hospice care program under 107
section 3712.07 of the Revised Code; 108

(i) A facility approved by the veterans administration 109
under section 104(a) of the "Veterans Health Care Amendments of 110
1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used 111
exclusively for the placement and care of veterans; 112

(j) The residence of a relative or guardian of a person 113
with mental illness. 114

(C) Nothing in division (B) of this section shall be 115
construed to permit personal care services to be imposed on a 116
resident who is capable of performing the activity in question 117
without assistance. 118

(D) Except in the case of a residential facility described 119
in division (B) (1) (a) of this section, members of the staff of a 120
residential facility shall not administer medication to the 121
facility's residents, but may do any of the following: 122

(1) Remind a resident when to take medication and watch to 123
ensure that the resident follows the directions on the 124
container; 125

(2) Assist a resident in the self-administration of 126
medication by taking the medication from the locked area where 127
it is stored, in accordance with rules adopted pursuant to this 128

section, and handing it to the resident. If the resident is 129
physically unable to open the container, a staff member may open 130
the container for the resident. 131

(3) Assist a physically impaired but mentally alert 132
resident, such as a resident with arthritis, cerebral palsy, or 133
Parkinson's disease, in removing oral or topical medication from 134
containers and in consuming or applying the medication, upon 135
request by or with the consent of the resident. If a resident is 136
physically unable to place a dose of medicine to the resident's 137
mouth without spilling it, a staff member may place the dose in 138
a container and place the container to the mouth of the 139
resident. 140

(E) (1) Except as provided in division (E) (2) of this 141
section, a person operating or seeking to operate a residential 142
facility shall apply for licensure of the facility to the 143
department of mental health and addiction services. The 144
application shall be submitted by the operator. When applying 145
for the license, the applicant shall pay to the department the 146
application fee specified in rules adopted under division (L) of 147
this section. The fee is nonrefundable. 148

The department shall send a copy of an application to the 149
ADAMHS board serving the county in which the person operates or 150
seeks to operate the facility. The ADAMHS board shall review the 151
application and provide to the department any information about 152
the applicant or the facility that the board would like the 153
department to consider in reviewing the application. 154

(2) A person may not apply for a license to operate a 155
residential facility if the person is or has been the owner, 156
operator, or manager of a residential facility for which a 157
license to operate was revoked or for which renewal of a license 158

was refused for any reason other than nonpayment of the license 159
renewal fee, unless both of the following conditions are met: 160

(a) A period of not less than two years has elapsed since 161
the date the director of mental health and addiction services 162
issued the order revoking or refusing to renew the facility's 163
license. 164

(b) The director's revocation or refusal to renew the 165
license was not based on an act or omission at the facility that 166
violated a resident's right to be free from abuse, neglect, or 167
exploitation. 168

(F) (1) The department of mental health and addiction 169
services shall inspect and license the operation of residential 170
facilities. The department shall consider the past record of the 171
facility and the applicant or licensee in arriving at its 172
licensure decision. 173

The department may issue full, probationary, and interim 174
licenses. A full license shall expire up to three years after 175
the date of issuance, a probationary license shall expire in a 176
shorter period of time as specified in rules adopted by the 177
director of mental health and addiction services under division 178
(L) of this section, and an interim license shall expire ninety 179
days after the date of issuance. A license may be renewed in 180
accordance with rules adopted by the director under division (L) 181
of this section. The renewal application shall be submitted by 182
the operator. When applying for renewal of a license, the 183
applicant shall pay to the department the renewal fee specified 184
in rules adopted under division (L) of this section. The fee is 185
nonrefundable. 186

(2) The department may issue an order suspending the 187

admission of residents to the facility or refuse to issue or 188
renew and may revoke a license if it finds any of the following: 189

(a) The facility is not in compliance with rules adopted 190
by the director pursuant to division (L) of this section; 191

(b) Any facility operated by the applicant or licensee has 192
been cited for a pattern of serious noncompliance or repeated 193
violations of statutes or rules during the period of current or 194
previous licenses; 195

(c) The applicant or licensee submits false or misleading 196
information as part of a license application, renewal, or 197
investigation. 198

Proceedings initiated to deny applications for full or 199
probationary licenses or to revoke such licenses are governed by 200
Chapter 119. of the Revised Code. An order issued pursuant to 201
this division remains in effect during the pendency of those 202
proceedings. 203

(G) The department may issue an interim license to operate 204
a residential facility if both of the following conditions are 205
met: 206

(1) The department determines that the closing of or the 207
need to remove residents from another residential facility has 208
created an emergency situation requiring immediate removal of 209
residents and an insufficient number of licensed beds are 210
available. 211

(2) The residential facility applying for an interim 212
license meets standards established for interim licenses in 213
rules adopted by the director under division (L) of this 214
section. 215

An interim license shall be valid for ninety days and may 216
be renewed by the director no more than twice. Proceedings 217
initiated to deny applications for or to revoke interim licenses 218
under this division are not subject to Chapter 119. of the 219
Revised Code. 220

(H) (1) The department of mental health and addiction 221
services may conduct an inspection of a residential facility as 222
follows: 223

(a) Prior to issuance of a license for the facility; 224

(b) Prior to renewal of the license; 225

(c) To determine whether the facility has completed a plan 226
of correction required pursuant to division (H) (2) of this 227
section and corrected deficiencies to the satisfaction of the 228
department and in compliance with this section and rules adopted 229
pursuant to it; 230

(d) Upon complaint by any individual or agency; 231

(e) At any time the director considers an inspection to be 232
necessary in order to determine whether the facility is in 233
compliance with this section and rules adopted pursuant to this 234
section. 235

(2) In conducting inspections the department may conduct 236
an on-site examination and evaluation of the residential 237
facility and its personnel, activities, and services. The 238
department shall have access to examine and copy all records, 239
accounts, and any other documents relating to the operation of 240
the residential facility, including records pertaining to 241
residents, and shall have access to the facility in order to 242
conduct interviews with the operator, staff, and residents. 243
Following each inspection and review, the department shall 244

complete a report listing any deficiencies, and including, when 245
appropriate, a time table within which the operator shall 246
correct the deficiencies. The department may require the 247
operator to submit a plan of correction describing how the 248
deficiencies will be corrected. 249

(I) No person shall do any of the following: 250

(1) Operate a residential facility unless the facility 251
holds a valid license; 252

(2) Violate any of the conditions of licensure after 253
having been granted a license; 254

(3) Interfere with a state or local official's inspection 255
or investigation of a residential facility; 256

(4) Violate any of the provisions of this section or any 257
rules adopted pursuant to this section. 258

(J) The following may enter a residential facility at any 259
time: 260

(1) Employees designated by the director of mental health 261
and addiction services; 262

(2) Employees of an ADAMHS board under either of the 263
following circumstances: 264

(a) When a resident of the facility is receiving services 265
from a community mental health services provider under contract 266
with that ADAMHS board or another ADAMHS board; 267

(b) When authorized by section 340.05 of the Revised Code. 268

(3) Employees of a community mental health services 269
provider under either of the following circumstances: 270

(a) When the provider has a person receiving services 271

residing in the facility; 272

(b) When the provider is acting as an agent of an ADAMHS 273
board other than the board with which it is under contract. 274

(4) Representatives of the state long-term care ombudsman 275
program when the facility provides accommodations, supervision, 276
and personal care services for three to sixteen unrelated adults 277
or to one or two unrelated adults who are receiving payments 278
under the residential state supplement program. 279

The persons specified in division (J) of this section 280
shall be afforded access to examine and copy all records, 281
accounts, and any other documents relating to the operation of 282
the residential facility, including records pertaining to 283
residents. 284

(K) Employees of the department of mental health and 285
addiction services may enter, for the purpose of investigation, 286
any institution, residence, facility, or other structure which 287
has been reported to the department as, or that the department 288
has reasonable cause to believe is, operating as a residential 289
facility without a valid license. 290

(L) The director shall adopt and may amend and rescind 291
rules pursuant to Chapter 119. of the Revised Code governing the 292
licensing and operation of residential facilities. The rules 293
shall establish all of the following: 294

(1) Minimum standards for the health, safety, adequacy, 295
and cultural competency of treatment of and services for persons 296
in residential facilities; 297

(2) Procedures for the issuance, renewal, or revocation of 298
the licenses of residential facilities; 299

(3) Procedures for conducting background investigations	300
for prospective or current operators, employees, volunteers, and	301
other non-resident occupants who may have direct access to	302
facility residents;	303
(4) The fee to be paid when applying for a new residential	304
facility license or renewing the license;	305
(5) Procedures for the operator of a residential facility	306
to follow when notifying the ADAMHS board serving the county in	307
which the facility is located when the facility is serving	308
residents with mental illness or severe mental disability,	309
including the circumstances under which the operator is required	310
to make such a notification;	311
(6) Procedures for the issuance and termination of orders	312
of suspension of admission of residents to a residential	313
facility;	314
(7) Measures to be taken by residential facilities	315
relative to residents' medication;	316
(8) Requirements relating to preparation of special diets;	317
(9) The maximum number of residents who may be served in a	318
residential facility;	319
(10) The rights of residents of residential facilities and	320
procedures to protect such rights;	321
(11) Standards and procedures under which the director may	322
waive the requirements of any of the rules adopted.	323
(M) (1) The department may withhold the source of any	324
complaint reported as a violation of this section when the	325
department determines that disclosure could be detrimental to	326
the department's purposes or could jeopardize the investigation.	327

The department may disclose the source of any complaint if the 328
complainant agrees in writing to such disclosure and shall 329
disclose the source upon order by a court of competent 330
jurisdiction. 331

(2) Any person who makes a complaint under division (M) (1) 332
of this section, or any person who participates in an 333
administrative or judicial proceeding resulting from such a 334
complaint, is immune from civil liability and is not subject to 335
criminal prosecution, other than for perjury, unless the person 336
has acted in bad faith or with malicious purpose. 337

(N) (1) The director of mental health and addiction 338
services may petition the court of common pleas of the county in 339
which a residential facility is located for an order enjoining 340
any person from operating a residential facility without a 341
license or from operating a licensed facility when, in the 342
director's judgment, there is a present danger to the health or 343
safety of any of the occupants of the facility. The court shall 344
have jurisdiction to grant such injunctive relief upon a showing 345
that the respondent named in the petition is operating a 346
facility without a license or there is a present danger to the 347
health or safety of any residents of the facility. 348

(2) When the court grants injunctive relief in the case of 349
a facility operating without a license, the court shall issue, 350
at a minimum, an order enjoining the facility from admitting new 351
residents to the facility and an order requiring the facility to 352
assist with the safe and orderly relocation of the facility's 353
residents. 354

(3) If injunctive relief is granted against a facility for 355
operating without a license and the facility continues to 356
operate without a license, the director shall refer the case to 357

the attorney general for further action. 358

(O) The director may fine a person for violating division 359
(I) of this section. The fine shall be five hundred dollars for 360
a first offense; for each subsequent offense, the fine shall be 361
one thousand dollars. The director's actions in imposing a fine 362
shall be taken in accordance with Chapter 119. of the Revised 363
Code. 364

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 365
of the Revised Code: 366

(1) "Independent living arrangement" means an arrangement 367
in which an individual with a developmental disability resides 368
in an individualized setting chosen by the individual or the 369
individual's guardian, which is not dedicated principally to the 370
provision of residential services for individuals with 371
developmental disabilities, and for which no financial support 372
is received for rendering such service from any governmental 373
agency by a provider of residential services. 374

(2) "Licensee" means the person or government agency that 375
has applied for a license to operate a residential facility and 376
to which the license was issued under this section. 377

(3) "Political subdivision" means a municipal corporation, 378
county, or township. 379

(4) "Related party" has the same meaning as in section 380
5123.16 of the Revised Code except that "provider" as used in 381
the definition of "related party" means a person or government 382
entity that held or applied for a license to operate a 383
residential facility, rather than a person or government entity 384
certified to provide supported living. 385

(5) (a) Except as provided in division (A) (5) (b) of this 386

section, "residential facility" means a home or facility, 387
including an ICF/IID, in which an individual with a 388
developmental disability resides. 389

(b) "Residential facility" does not mean any of the 390
following: 391

(i) The home of a relative or legal guardian in which an 392
individual with a developmental disability resides; 393

(ii) A respite care home certified under section 5126.05 394
of the Revised Code; 395

(iii) A county home or district home operated pursuant to 396
Chapter 5155. of the Revised Code; 397

(iv) A dwelling in which the only residents with 398
developmental disabilities are in independent living 399
arrangements or are being provided supported living. 400

(B) Every person or government agency desiring to operate 401
a residential facility shall apply for licensure of the facility 402
to the director of developmental disabilities unless the 403
residential facility is subject to section 3721.02, 5103.03, 404
5119.33, or division (B) (1) (b) of section 5119.34 of the Revised 405
Code. 406

(C) Subject to section 5123.196 of the Revised Code, the 407
director of developmental disabilities shall license the 408
operation of residential facilities. An initial license shall be 409
issued for a period that does not exceed one year, unless the 410
director denies the license under division (D) of this section. 411
A license shall be renewed for a period that does not exceed 412
three years, unless the director refuses to renew the license 413
under division (D) of this section. The director, when issuing 414
or renewing a license, shall specify the period for which the 415

license is being issued or renewed. A license remains valid for 416
the length of the licensing period specified by the director, 417
unless the license is terminated, revoked, or voluntarily 418
surrendered. 419

(D) If it is determined that an applicant or licensee is 420
not in compliance with a provision of this chapter that applies 421
to residential facilities or the rules adopted under such a 422
provision, the director may deny issuance of a license, refuse 423
to renew a license, terminate a license, revoke a license, issue 424
an order for the suspension of admissions to a facility, issue 425
an order for the placement of a monitor at a facility, issue an 426
order for the immediate removal of residents, or take any other 427
action the director considers necessary consistent with the 428
director's authority under this chapter regarding residential 429
facilities. In the director's selection and administration of 430
the sanction to be imposed, all of the following apply: 431

(1) The director may deny, refuse to renew, or revoke a 432
license, if the director determines that the applicant or 433
licensee has demonstrated a pattern of serious noncompliance or 434
that a violation creates a substantial risk to the health and 435
safety of residents of a residential facility. 436

(2) The director may terminate a license if more than 437
twelve consecutive months have elapsed since the residential 438
facility was last occupied by a resident or a notice required by 439
division (J) of this section is not given. 440

(3) The director may issue an order for the suspension of 441
admissions to a facility for any violation that may result in 442
sanctions under division (D) (1) of this section and for any 443
other violation specified in rules adopted under division (G) (2) 444
of this section. If the suspension of admissions is imposed for 445

a violation that may result in sanctions under division (D) (1) 446
of this section, the director may impose the suspension before 447
providing an opportunity for an adjudication under Chapter 119. 448
of the Revised Code. The director shall lift an order for the 449
suspension of admissions when the director determines that the 450
violation that formed the basis for the order has been 451
corrected. 452

(4) The director may order the placement of a monitor at a 453
residential facility for any violation specified in rules 454
adopted under division (G) (2) of this section. The director 455
shall lift the order when the director determines that the 456
violation that formed the basis for the order has been 457
corrected. 458

(5) When the director initiates license revocation 459
proceedings, no opportunity for submitting a plan of correction 460
shall be given. The director shall notify the licensee by letter 461
of the initiation of the proceedings. The letter shall list the 462
deficiencies of the residential facility and inform the licensee 463
that no plan of correction will be accepted. The director shall 464
also send a copy of the letter to the county board of 465
developmental disabilities. Except in the case of a licensee 466
that is an ICF/IID, the county board shall send a copy of the 467
letter to each of the following: 468

- (a) Each resident who receives services from the licensee; 469
 - (b) The guardian of each resident who receives services 470
from the licensee if the resident has a guardian; 471
 - (c) The parent or guardian of each resident who receives 472
services from the licensee if the resident is a minor. 473
- (6) Pursuant to rules which shall be adopted in accordance 474

with Chapter 119. of the Revised Code, the director may order 475
the immediate removal of residents from a residential facility 476
whenever conditions at the facility present an immediate danger 477
of physical or psychological harm to the residents. 478

(7) In determining whether a residential facility is being 479
operated in compliance with a provision of this chapter that 480
applies to residential facilities or the rules adopted under 481
such a provision, or whether conditions at a residential 482
facility present an immediate danger of physical or 483
psychological harm to the residents, the director may rely on 484
information obtained by a county board of developmental 485
disabilities or other governmental agencies. 486

(8) In proceedings initiated to deny, refuse to renew, or 487
revoke licenses, the director may deny, refuse to renew, or 488
revoke a license regardless of whether some or all of the 489
deficiencies that prompted the proceedings have been corrected 490
at the time of the hearing. 491

(E) (1) Except as provided in division (E) (2) of this 492
section, appeals from proceedings initiated to impose a sanction 493
under division (D) of this section shall be conducted in 494
accordance with Chapter 119. of the Revised Code. 495

(2) Appeals from proceedings initiated to order the 496
suspension of admissions to a facility shall be conducted in 497
accordance with Chapter 119. of the Revised Code, unless the 498
order was issued before providing an opportunity for an 499
adjudication, in which case all of the following apply: 500

(a) The licensee may request a hearing not later than ten 501
days after receiving the notice specified in section 119.07 of 502
the Revised Code. 503

(b) If a timely request for a hearing that includes the
licensee's current address is made, the hearing shall commence
not later than thirty days after the department receives the
request.

(c) After commencing, the hearing shall continue
uninterrupted, except for Saturdays, Sundays, and legal
holidays, unless other interruptions are agreed to by the
licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the
hearing examiner shall file a report and recommendations not
later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the
hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing
examiner receives the briefs.

(e) A copy of the written report and recommendation of the
hearing examiner shall be sent, by certified mail, to the
licensee and the licensee's attorney, if applicable, not later
than five days after the report is filed.

(f) Not later than five days after the hearing examiner
files the report and recommendations, the licensee may file
objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner
files the report and recommendations, the director shall issue
an order approving, modifying, or disapproving the report and
recommendations.

(h) Notwithstanding the pendency of the hearing, the

director shall lift the order for the suspension of admissions 532
when the director determines that the violation that formed the 533
basis for the order has been corrected. 534

(F) Neither a person or government agency whose 535
application for a license to operate a residential facility is 536
denied nor a related party of the person or government agency 537
may apply for a license to operate a residential facility before 538
the date that is five years after the date of the denial. 539
Neither a licensee whose residential facility license is revoked 540
nor a related party of the licensee may apply for a residential 541
facility license before the date that is five years after the 542
date of the revocation. 543

(G) In accordance with Chapter 119. of the Revised Code, 544
the director shall adopt and may amend and rescind rules for 545
licensing and regulating the operation of residential 546
facilities. The rules for residential facilities that are 547
ICFs/IID may differ from those for other residential facilities. 548
The rules shall establish and specify the following: 549

(1) Procedures and criteria for issuing and renewing 550
licenses, including procedures and criteria for determining the 551
length of the licensing period that the director must specify 552
for each license when it is issued or renewed; 553

(2) Procedures and criteria for denying, refusing to 554
renew, terminating, and revoking licenses and for ordering the 555
suspension of admissions to a facility, placement of a monitor 556
at a facility, and the immediate removal of residents from a 557
facility; 558

(3) Fees for issuing and renewing licenses, which shall be 559
deposited into the program fee fund created under section 560

5123.033 of the Revised Code; 561

(4) Procedures for surveying residential facilities; 562

(5) Classifications for the various types of residential 563
facilities; 564

(6) The maximum number of individuals who may be served in 565
a particular type of residential facility; 566

(7) Uniform procedures for admission of individuals to and 567
transfers and discharges of individuals from residential 568
facilities; 569

(8) Other standards for the operation of residential 570
facilities and the services provided at residential facilities; 571

(9) Procedures for waiving any provision of any rule 572
adopted under this section. 573

(H) (1) Before issuing a license, the director shall 574
conduct a survey of the residential facility for which 575
application is made. The director shall conduct a survey of each 576
licensed residential facility at least once during the period 577
the license is valid and may conduct additional inspections as 578
needed. A survey includes but is not limited to an on-site 579
examination and evaluation of the residential facility, its 580
personnel, and the services provided there. The director may 581
assign to a county board of developmental disabilities or the 582
department of health the responsibility to conduct any survey or 583
inspection under this section. 584

(2) In conducting surveys, the director shall be given 585
access to the residential facility; all records, accounts, and 586
any other documents related to the operation of the facility; 587
the licensee; the residents of the facility; and all persons 588

acting on behalf of, under the control of, or in connection with 589
the licensee. The licensee and all persons on behalf of, under 590
the control of, or in connection with the licensee shall 591
cooperate with the director in conducting the survey. 592

(3) Following each survey, the director shall provide the 593
licensee with a report listing the date of the survey, any 594
citations issued as a result of the survey, and the statutes or 595
rules that purportedly have been violated and are the bases of 596
the citations. The director shall also do both of the following: 597

(a) Specify a date by which the licensee may appeal any of 598
the citations; 599

(b) When appropriate, specify a timetable within which the 600
licensee must submit a plan of correction describing how the 601
problems specified in the citations will be corrected and, the 602
date by which the licensee anticipates the problems will be 603
corrected. 604

(4) If the director initiates a proceeding to revoke a 605
license, the director shall include the report required by 606
division (H) (3) of this section with the notice of the proposed 607
revocation the director sends to the licensee. In this 608
circumstance, the licensee may not submit a plan of correction. 609

(5) After a plan of correction is submitted, the director 610
shall approve or disapprove the plan. If the plan of correction 611
is approved, a copy of the approved plan shall be provided, not 612
later than five business days after it is approved, to any 613
person or government entity who requests it and made available 614
on the internet web site maintained by the department of 615
developmental disabilities. If the plan of correction is not 616
approved and the director initiates a proceeding to revoke the 617

license, a copy of the survey report shall be provided to any 618
person or government entity that requests it and shall be made 619
available on the internet web site maintained by the department. 620

(6) The director shall initiate disciplinary action 621
against any department employee who notifies or causes the 622
notification to any unauthorized person of an unannounced survey 623
of a residential facility by an authorized representative of the 624
department. 625

(I) In addition to any other information which may be 626
required of applicants for a license pursuant to this section, 627
the director shall require each applicant to provide a copy of 628
an approved plan for a proposed residential facility pursuant to 629
section 5123.042 of the Revised Code. This division does not 630
apply to renewal of a license or to an applicant for an initial 631
or modified license who meets the requirements of section 632
5123.197 of the Revised Code. 633

(J) (1) A licensee shall notify the owner of the building 634
in which the licensee's residential facility is located of any 635
significant change in the identity of the licensee or management 636
contractor before the effective date of the change if the 637
licensee is not the owner of the building. 638

(2) Pursuant to rules, which shall be adopted in 639
accordance with Chapter 119. of the Revised Code, the director 640
may require notification to the department of any significant 641
change in the ownership of a residential facility or in the 642
identity of the licensee or management contractor. If the 643
director determines that a significant change of ownership is 644
proposed, the director shall consider the proposed change to be 645
an application for development by a new operator pursuant to 646
section 5123.042 of the Revised Code and shall advise the 647

applicant within sixty days of the notification that the current 648
license shall continue in effect or a new license will be 649
required pursuant to this section. If the director requires a 650
new license, the director shall permit the facility to continue 651
to operate under the current license until the new license is 652
issued, unless the current license is revoked, refused to be 653
renewed, or terminated in accordance with Chapter 119. of the 654
Revised Code. 655

(3) A licensee shall transfer to the new licensee or 656
management contractor all records related to the residents of 657
the facility following any significant change in the identity of 658
the licensee or management contractor. 659

(K) A county board of developmental disabilities and any 660
interested person may file complaints alleging violations of 661
statute or department rule relating to residential facilities 662
with the department. All complaints shall state the facts 663
constituting the basis of the allegation. The department shall 664
not reveal the source of any complaint unless the complainant 665
agrees in writing to waive the right to confidentiality or until 666
so ordered by a court of competent jurisdiction. 667

The department shall adopt rules in accordance with 668
Chapter 119. of the Revised Code establishing procedures for the 669
receipt, referral, investigation, and disposition of complaints 670
filed with the department under this division. 671

(L) Before issuing a license under this section to a 672
residential facility that will accommodate at any time more than 673
one individual with a developmental disability, the director 674
shall, by first class mail, notify the following: 675

(1) If the facility will be located in a municipal 676

corporation, the clerk of the legislative authority of the 677
municipal corporation; 678

(2) If the facility will be located in unincorporated 679
territory, the clerk of the appropriate board of county 680
commissioners and the fiscal officer of the appropriate board of 681
township trustees. 682

The director shall not issue the license for ten days 683
after mailing the notice, excluding Saturdays, Sundays, and 684
legal holidays, in order to give the notified local officials 685
time in which to comment on the proposed issuance. 686

Any legislative authority of a municipal corporation, 687
board of county commissioners, or board of township trustees 688
that receives notice under this division of the proposed 689
issuance of a license for a residential facility may comment on 690
it in writing to the director within ten days after the director 691
mailed the notice, excluding Saturdays, Sundays, and legal 692
holidays. If the director receives written comments from any 693
notified officials within the specified time, the director shall 694
make written findings concerning the comments and the director's 695
decision on the issuance of the license. If the director does 696
not receive written comments from any notified local officials 697
within the specified time, the director shall continue the 698
process for issuance of the license. 699

~~(M) Any person may operate a licensed residential facility 700~~
~~that provides room and board, personal care, habilitation 701~~
~~services, and supervision in a family setting for at least six 702~~
~~but not more than eight individuals with developmental 703~~
~~disabilities as a permitted use in any residential district or 704~~
~~zone, including any single family residential district or zone, 705~~
~~of any political subdivision. These residential facilities may 706~~

~~be required to comply with area, height, yard, and architectural- 707~~
~~compatibility requirements that are uniformly imposed upon all- 708~~
~~single family residences within the district or zone. 709~~

~~(N) Any person may operate a licensed residential facility- 710~~
~~that provides room and board, personal care, habilitation- 711~~
~~services, and supervision in a family setting for at least nine- 712~~
~~but not more than sixteen individuals with developmental- 713~~
~~disabilities as a permitted use in any multiple family- 714~~
~~residential district or zone of any political subdivision,- 715~~
~~except that a political subdivision that has enacted a zoning- 716~~
~~ordinance or resolution establishing planned unit development- 717~~
~~districts may exclude these residential facilities from those- 718~~
~~districts, and a political subdivision that has enacted a zoning- 719~~
~~ordinance or resolution may regulate these residential- 720~~
~~facilities in multiple family residential districts or zones as- 721~~
~~a conditionally permitted use or special exception, in either- 722~~
~~case, under reasonable and specific standards and conditions set- 723~~
~~out in the zoning ordinance or resolution to: 724~~

~~(1) Require the architectural design and site layout of- 725~~
~~the residential facility and the location, nature, and height of- 726~~
~~any walls, screens, and fences to be compatible with adjoining- 727~~
~~land uses and the residential character of the neighborhood; 728~~

~~(2) Require compliance with yard, parking, and sign- 729~~
~~regulation; 730~~

~~(3) Limit excessive concentration of these residential- 731~~
~~facilities. 732~~

~~(O) This section does not prohibit a political subdivision- 733~~
~~from applying to residential facilities nondiscriminatory- 734~~
~~regulations requiring compliance with health, fire, and safety- 735~~

~~regulations and building standards and regulations.~~ 736

~~(P) Divisions (M) and (N) of this section are not 737
applicable to municipal corporations that had in effect on June 738
15, 1977, an ordinance specifically permitting in residential 739
zones licensed residential facilities by means of permitted 740
uses, conditional uses, or special exception, so long as such 741
ordinance remains in effect without any substantive 742
modification. 743~~

~~(Q) (1) (M) (1)~~ The director may issue an interim license to 744
operate a residential facility to an applicant for a license 745
under this section if either of the following is the case: 746

(a) The director determines that an emergency exists 747
requiring immediate placement of individuals in a residential 748
facility, that insufficient licensed beds are available, and 749
that the residential facility is likely to receive a permanent 750
license under this section within thirty days after issuance of 751
the interim license. 752

(b) The director determines that the issuance of an 753
interim license is necessary to meet a temporary need for a 754
residential facility. 755

(2) To be eligible to receive an interim license, an 756
applicant must meet the same criteria that must be met to 757
receive a permanent license under this section, except for any 758
differing procedures and time frames that may apply to issuance 759
of a permanent license. 760

(3) An interim license shall be valid for thirty days and 761
may be renewed by the director for a period not to exceed one 762
hundred eighty days. 763

(4) The director shall adopt rules in accordance with 764

Chapter 119. of the Revised Code as the director considers 765
necessary to administer the issuance of interim licenses. 766

~~(R)~~ (N) Notwithstanding rules adopted pursuant to this 767
section establishing the maximum number of individuals who may 768
be served in a particular type of residential facility, a 769
residential facility shall be permitted to serve the same number 770
of individuals being served by the facility on the effective 771
date of the rules or the number of individuals for which the 772
facility is authorized pursuant to a current application for a 773
certificate of need with a letter of support from the department 774
of developmental disabilities and which is in the review process 775
prior to April 4, 1986. 776

This division does not preclude the department from 777
suspending new admissions to a residential facility pursuant to 778
a written order issued under section 5124.70 of the Revised 779
Code. 780

~~(S)~~ (O) The director may enter at any time, for purposes 781
of investigation, any home, facility, or other structure that 782
has been reported to the director or that the director has 783
reasonable cause to believe is being operated as a residential 784
facility without a license issued under this section. 785

The director may petition the court of common pleas of the 786
county in which an unlicensed residential facility is located 787
for an order enjoining the person or governmental agency 788
operating the facility from continuing to operate without a 789
license. The court may grant the injunction on a showing that 790
the person or governmental agency named in the petition is 791
operating a residential facility without a license. The court 792
may grant the injunction, regardless of whether the residential 793
facility meets the requirements for receiving a license under 794

this section. 795

Sec. 5123.196. (A) Except as provided in division (E) of 796
this section, the director of developmental disabilities shall 797
not issue a license under section 5123.19 of the Revised Code on 798
or after July 1, 2003, if issuance will result in there being 799
more beds in all residential facilities licensed under that 800
section than is permitted under division (B) of this section. 801

(B) The maximum number of beds for the purpose of division 802
(A) of this section shall not exceed ten thousand eight hundred 803
thirty-eight minus, except as provided in division (C) of this 804
section, both of the following: 805

(1) The number of such beds that cease to be residential 806
facility beds on or after July 1, 2003, because a residential 807
facility license is revoked, terminated, or not renewed for any 808
reason or is surrendered in accordance with section 5123.19 of 809
the Revised Code; 810

(2) The number of such beds for which a licensee 811
voluntarily converts to use for supported living on or after 812
July 1, 2003. 813

(C) The director is not required to reduce the maximum 814
number of beds pursuant to division (B) of this section by a bed 815
that ceases to be a residential facility bed if the director 816
determines that the bed is needed to provide services to an 817
individual with a developmental disability who resided in the 818
residential facility in which the bed was located. 819

(D) The director shall maintain an up-to-date written 820
record of the maximum number of residential facility beds 821
provided for by division (B) of this section. 822

(E) The director may issue an interim license under 823

division ~~(Q)~~ (M) of section 5123.19 of the Revised Code and 824
issue, pursuant to rules adopted under division (G) (9) of that 825
section, a waiver allowing a residential facility to admit more 826
residents than the facility is licensed to admit regardless of 827
whether the interim license or waiver will result in there being 828
more beds in all residential facilities licensed under that 829
section than is permitted under division (B) of this section. 830

Section 2. That existing sections 5119.34, 5123.19, and 831
5123.196 of the Revised Code are hereby repealed. 832

Section 3. That section 5119.341 of the Revised Code is 833
hereby repealed. 834