

**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 1  
and to repeal section 5119.341 of the Revised 2  
Code to eliminate the specific authority of 3  
residential facilities to operate within 4  
residential zoning districts. 5

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

**Section 1.** That sections 5119.34, 5123.19, and 5123.196 of 6  
the Revised Code be amended to read as follows: 7

**Sec. 5119.34.** (A) As used in this section and ~~sections~~ 8  
~~5119.341 and section~~ 5119.342 of the Revised Code: 9

(1) "Accommodations" means housing, daily meal 10  
preparation, laundry, housekeeping, arranging for 11  
transportation, social and recreational activities, maintenance, 12  
security, and other services that do not constitute personal 13  
care services or skilled nursing care. 14

(2) "ADAMHS board" means a board of alcohol, drug 15  
addiction, and mental health services. 16

(3) "Adult" means a person who is eighteen years of age or 17

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

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

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

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

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

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

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

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

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

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed 43  
44  
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, supervision, and personal care services to any of the following:	75 76
(i) One or two unrelated persons with mental illness;	77
(ii) One or two unrelated adults who are receiving payments under the residential state supplement program;	78 79
(iii) Three to sixteen unrelated adults.	80
(c) Class three facilities provide room and board for five or more unrelated adults with mental illness.	81 82
(2) "Residential facility" does not include any of the following:	83 84
(a) A hospital subject to licensure under section 5119.33 of the Revised Code or an institution maintained, operated, managed, and governed by the department of mental health and addiction services for the hospitalization of mentally ill persons pursuant to section 5119.14 of the Revised Code;	85 86 87 88 89
(b) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;	90 91 92
(c) An institution or association subject to certification under section 5103.03 of the Revised Code;	93 94
(d) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;	95 96 97
(e) A nursing home, residential care facility, or home for the aging as defined in section 3721.02 of the Revised Code;	98 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 board other than the board with which it is under contract.	273 274
(4) Representatives of the state long-term care ombudsman program when the facility provides accommodations, supervision, and personal care services for three to sixteen unrelated adults or to one or two unrelated adults who are receiving payments under the residential state supplement program.	275 276 277 278 279
The persons specified in division (J) of this section shall be afforded access to examine and copy all records, accounts, and any other documents relating to the operation of the residential facility, including records pertaining to residents.	280 281 282 283 284
(K) Employees of the department of mental health and addiction services may enter, for the purpose of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as a residential facility without a valid license.	285 286 287 288 289 290
(L) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code governing the licensing and operation of residential facilities. The rules shall establish all of the following:	291 292 293 294
(1) Minimum standards for the health, safety, adequacy, and cultural competency of treatment of and services for persons in residential facilities;	295 296 297
(2) Procedures for the issuance, renewal, or revocation of the licenses of residential facilities;	298 299

(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 facilities;	563 564
(6) The maximum number of individuals who may be served in a particular type of residential facility;	565 566
(7) Uniform procedures for admission of individuals to and transfers and discharges of individuals from residential facilities;	567 568 569
(8) Other standards for the operation of residential facilities and the services provided at residential facilities;	570 571
(9) Procedures for waiving any provision of any rule adopted under this section.	572 573
(H) (1) Before issuing a license, the director shall conduct a survey of the residential facility for which application is made. The director shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there. The director may assign to a county board of developmental disabilities or the department of health the responsibility to conduct any survey or inspection under this section.	574 575 576 577 578 579 580 581 582 583 584
(2) In conducting surveys, the director shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons	585 586 587 588

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