

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 77

Representative Retherford

A BILL

To amend sections 5104.01, 5104.015, and 5104.99 1
and to enact sections 5104.0113, 5104.15, 2
5104.16, and 5104.17 of the Revised Code to 3
provide for the licensure of sick-child care 4
centers. 5

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

Section 1. That sections 5104.01, 5104.015, and 5104.99 be 6
amended and sections 5104.0113, 5104.15, 5104.16, and 5104.17 of 7
the Revised Code be enacted to read as follows: 8

Sec. 5104.01. As used in this chapter: 9

(A) "Administrator" means the person responsible for the 10
daily operation of a center, type A home, or type B home. The 11
administrator and the owner may be the same person. 12

(B) "Approved child day camp" means a child day camp 13
approved pursuant to section 5104.22 of the Revised Code. 14

(C) "Border state child care provider" means a child care 15
provider that is located in a state bordering Ohio and that is 16
licensed, certified, or otherwise approved by that state to 17
provide child care. 18

(D) "Career pathways model" means an alternative pathway to meeting the requirements to be a child-care staff member or administrator that does both of the following:

(1) Uses a framework approved by the director of job and family services to document formal education, training, experience, and specialized credentials and certifications;

(2) Allows the child-care staff member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.

(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

(F) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

(G) "Child" includes an infant, toddler, preschool-age child, or school-age child.

(H) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended.

(I) "Child day camp" means a program in which only school-age children attend or participate, that operates for no more

than seven hours per day, that operates only during one or more 48
public school district's regular vacation periods or for no more 49
than fifteen weeks during the summer, and that operates outdoor 50
activities for each child who attends or participates in the 51
program for a minimum of fifty per cent of each day that 52
children attend or participate in the program, except for any 53
day when hazardous weather conditions prevent the program from 54
operating outdoor activities for a minimum of fifty per cent of 55
that day. For purposes of this division, the maximum seven hours 56
of operation time does not include transportation time from a 57
child's home to a child day camp and from a child day camp to a 58
child's home. 59

(J) "Child care" means all of the following: 60

(1) Administering to the needs of infants, toddlers, 61
preschool-age children, and school-age children outside of 62
school hours; 63

(2) By persons other than their parents, guardians, or 64
custodians; 65

(3) For any part of the twenty-four-hour day; 66

(4) In a place other than a child's own home, except that 67
an in-home aide provides child care in the child's own home. 68

(K) "Child day-care center" and "center" mean any place in 69
which child care or publicly funded child care is provided for 70
thirteen or more children at one time or any place that is not 71
the permanent residence of the licensee or administrator in 72
which child care or publicly funded child care is provided for 73
seven to twelve children at one time. In counting children for 74
the purposes of this division, any children under six years of 75
age who are related to a licensee, administrator, or employee 76

and who are on the premises of the center shall be counted. 77
"Child day-care center" and "center" do not include any of the 78
following: 79

(1) A place located in and operated by a hospital, as 80
defined in section 3727.01 of the Revised Code, in which the 81
needs of children are administered to, if all the children whose 82
needs are being administered to are monitored under the on-site 83
supervision of a physician licensed under Chapter 4731. of the 84
Revised Code or a registered nurse licensed under Chapter 4723. 85
of the Revised Code, and the services are provided only for 86
children who, in the opinion of the child's parent, guardian, or 87
custodian, are exhibiting symptoms of a communicable disease or 88
other illness or are injured; 89

(2) A sick-child care center; 90

(3) A child day camp; 91

~~(3)~~ (4) A place that provides child care, but not publicly 92
funded child care, if all of the following apply: 93

(a) An organized religious body provides the child care; 94

(b) A parent, custodian, or guardian of at least one child 95
receiving child care is on the premises and readily accessible 96
at all times; 97

(c) The child care is not provided for more than thirty 98
days a year; 99

(d) The child care is provided only for preschool-age and 100
school-age children. 101

(L) "Child care resource and referral service 102
organization" means a community-based nonprofit organization 103
that provides child care resource and referral services but not 104

child care.	105
(M) "Child care resource and referral services" means all	106
of the following services:	107
(1) Maintenance of a uniform data base of all child care	108
providers in the community that are in compliance with this	109
chapter, including current occupancy and vacancy data;	110
(2) Provision of individualized consumer education to	111
families seeking child care;	112
(3) Provision of timely referrals of available child care	113
providers to families seeking child care;	114
(4) Recruitment of child care providers;	115
(5) Assistance in the development, conduct, and	116
dissemination of training for child care providers and provision	117
of technical assistance to current and potential child care	118
providers, employers, and the community;	119
(6) Collection and analysis of data on the supply of and	120
demand for child care in the community;	121
(7) Technical assistance concerning locally, state, and	122
federally funded child care and early childhood education	123
programs;	124
(8) Stimulation of employer involvement in making child	125
care more affordable, more available, safer, and of higher	126
quality for their employees and for the community;	127
(9) Provision of written educational materials to	128
caretaker parents and informational resources to child care	129
providers;	130
(10) Coordination of services among child care resource	131

and referral service organizations to assist in developing and 132
maintaining a statewide system of child care resource and 133
referral services if required by the department of job and 134
family services; 135

(11) Cooperation with the county department of job and 136
family services in encouraging the establishment of parent 137
cooperative child care centers and parent cooperative type A 138
family day-care homes. 139

(N) "Child-care staff member" means an employee of a child 140
day-care center or type A family day-care home who is primarily 141
responsible for the care and supervision of children. The 142
administrator may be a part-time child-care staff member when 143
not involved in other duties. 144

(O) "Drop-in child day-care center," "drop-in center," 145
"drop-in type A family day-care home," and "drop-in type A home" 146
mean a center or type A home that provides child care or 147
publicly funded child care for children on a temporary, 148
irregular basis. 149

(P) "Employee" means a person who either: 150

(1) Receives compensation for duties performed in a child 151
day-care center or type A family day-care home; 152

(2) Is assigned specific working hours or duties in a 153
child day-care center or type A family day-care home. 154

(Q) "Employer" means a person, firm, institution, 155
organization, or agency that operates a child day-care center or 156
type A family day-care home subject to licensure under this 157
chapter. 158

(R) "Federal poverty line" means the official poverty 159

guideline as revised annually in accordance with section 673(2) 160
of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 161
511, 42 U.S.C. 9902, as amended, for a family size equal to the 162
size of the family of the person whose income is being 163
determined. 164

(S) "Head start program" means a comprehensive child 165
development program serving birth to three years old and 166
preschool-age children that receives funds distributed under the 167
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 168
amended, and is licensed as a child day-care center. 169

(T) "Income" means gross income, as defined in section 170
5107.10 of the Revised Code, less any amounts required by 171
federal statutes or regulations to be disregarded. 172

(U) "Indicator checklist" means an inspection tool, used 173
in conjunction with an instrument-based program monitoring 174
information system, that contains selected licensing 175
requirements that are statistically reliable indicators or 176
predictors of a child day-care center's type A family day-care 177
home's, or licensed type B family day-care home's compliance 178
with licensing requirements. 179

(V) "Infant" means a child who is less than eighteen 180
months of age. 181

(W) "In-home aide" means a person who does not reside with 182
the child but provides care in the child's home and is certified 183
by a county director of job and family services pursuant to 184
section 5104.12 of the Revised Code to provide publicly funded 185
child care to a child in a child's own home pursuant to this 186
chapter and any rules adopted under it. 187

(X) "Instrument-based program monitoring information 188

system" means a method to assess compliance with licensing 189
requirements for child day-care centers, type A family day-care 190
homes, and licensed type B family day-care homes in which each 191
licensing requirement is assigned a weight indicative of the 192
relative importance of the requirement to the health, growth, 193
and safety of the children that is used to develop an indicator 194
checklist. 195

(Y) "License capacity" means the maximum number in each 196
age category of children who may be cared for in a child day- 197
care center or type A family day-care home at one time as 198
determined by the director of job and family services 199
considering building occupancy limits established by the 200
department of commerce, amount of available indoor floor space 201
and outdoor play space, and amount of available play equipment, 202
materials, and supplies. For the purposes of a provisional 203
license issued under this chapter, the director shall also 204
consider the number of available child-care staff members when 205
determining "license capacity" for the provisional license. 206

(Z) "Licensed child care program" means any of the 207
following: 208

(1) A child day-care center licensed by the department of 209
job and family services pursuant to this chapter; 210

(2) A type A family day-care home or type B family day- 211
care home licensed by the department of job and family services 212
pursuant to this chapter; 213

(3) A licensed preschool program or licensed school child 214
program. 215

(AA) "Licensed preschool program" or "licensed school 216
child program" means a preschool program or school child 217

program, as defined in section 3301.52 of the Revised Code, that 218
is licensed by the department of education pursuant to sections 219
3301.52 to 3301.59 of the Revised Code. 220

(BB) "Licensed type B family day-care home" and "licensed 221
type B home" mean a type B family day-care home for which there 222
is a valid license issued by the director of job and family 223
services pursuant to section 5104.03 of the Revised Code. 224

(CC) "Licensee" means the owner of a child day-care 225
center, type A family day-care home, or type B family day-care 226
home that is licensed pursuant to this chapter and who is 227
responsible for ensuring its compliance with this chapter and 228
rules adopted pursuant to this chapter. 229

(DD) "Operate a child day camp" means to operate, 230
establish, manage, conduct, or maintain a child day camp. 231

(EE) "Owner" includes a person, as defined in section 1.59 232
of the Revised Code, or government entity. 233

(FF) "Parent cooperative child day-care center," "parent 234
cooperative center," "parent cooperative type A family day-care 235
home," and "parent cooperative type A home" mean a corporation 236
or association organized for providing educational services to 237
the children of members of the corporation or association, 238
without gain to the corporation or association as an entity, in 239
which the services of the corporation or association are 240
provided only to children of the members of the corporation or 241
association, ownership and control of the corporation or 242
association rests solely with the members of the corporation or 243
association, and at least one parent-member of the corporation 244
or association is on the premises of the center or type A home 245
during its hours of operation. 246

(GG) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child care or publicly funded child care for not more than four hours a day for any child or not more than fifteen consecutive weeks per year, regardless of the number of hours per day.	247 248 249 250 251 252
(HH) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any other buildings on the grounds used for such activities.	253 254 255 256
(II) "Preschool-age child" means a child who is three years old or older but is not a school-age child.	257 258
(JJ) "Protective child care" means publicly funded child care for the direct care and protection of a child to whom either of the following applies:	259 260 261
(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;	262 263 264 265 266 267
(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are otherwise ineligible for publicly funded child care.	268 269 270 271 272
(KK) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool-age children, and school-age children under age thirteen during any part of the	273 274 275

twenty-four-hour day by persons other than their caretaker 276
parents for remuneration wholly or in part with federal or state 277
funds, including funds available under the child care block 278
grant act, Title IV-A, and Title XX, distributed by the 279
department of job and family services. 280

(LL) "Religious activities" means any of the following: 281
worship or other religious services; religious instruction; 282
Sunday school classes or other religious classes conducted 283
during or prior to worship or other religious services; youth or 284
adult fellowship activities; choir or other musical group 285
practices or programs; meals; festivals; or meetings conducted 286
by an organized religious group. 287

(MM) "School-age child" means a child who is enrolled in 288
or is eligible to be enrolled in a grade of kindergarten or 289
above but is less than fifteen years old. 290

(NN) "School-age child care center" and "school-age child 291
type A home" mean a center or type A home that provides child 292
care for school-age children only and that does either or both 293
of the following: 294

(1) Operates only during that part of the day that 295
immediately precedes or follows the public school day of the 296
school district in which the center or type A home is located; 297

(2) Operates only when the public schools in the school 298
district in which the center or type A home is located are not 299
open for instruction with pupils in attendance. 300

(OO) "Sick-child care center" means a place that provides 301
child care, including administering to the needs of school-age 302
children during school hours, for children with short-term 303
illnesses or other medical conditions on a temporary, irregular 304

basis. A sick-child care center does not include a place located 305
in and operated by a hospital, as defined in section 3727.01 of 306
the Revised Code. 307

(PP) "Serious risk noncompliance" means a licensure or 308
certification rule violation that leads to a great risk of harm 309
to, or death of, a child, and is observable, not inferable. 310

~~(PP)~~(QQ) "State median income" means the state median 311
income calculated by the department of development pursuant to 312
division (A)(1)(g) of section 5709.61 of the Revised Code. 313

~~(QQ)~~(RR) "Title IV-A" means Title IV-A of the "Social 314
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 315

~~(RR)~~(SS) "Title XX" means Title XX of the "Social 316
Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 317

~~(SS)~~(TT) "Toddler" means a child who is at least eighteen 318
months of age but less than three years of age. 319

~~(TT)~~(UU) "Type A family day-care home" and "type A home" 320
mean a permanent residence of the administrator in which child 321
care or publicly funded child care is provided for seven to 322
twelve children at one time or a permanent residence of the 323
administrator in which child care is provided for four to twelve 324
children at one time if four or more children at one time are 325
under two years of age. In counting children for the purposes of 326
this division, any children under six years of age who are 327
related to a licensee, administrator, or employee and who are on 328
the premises of the type A home shall be counted. "Type A family 329
day-care home" and "type A home" do not include any child day 330
camp. 331

~~(UU)~~(VV) "Type B family day-care home" and "type B home" 332
mean a permanent residence of the provider in which child care 333

is provided for one to six children at one time and in which no 334
more than three children are under two years of age at one time. 335
In counting children for the purposes of this division, any 336
children under six years of age who are related to the provider 337
and who are on the premises of the type B home shall be counted. 338
"Type B family day-care home" and "type B home" do not include 339
any child day camp. 340

Sec. 5104.015. The director of job and family services 341
shall adopt rules in accordance with Chapter 119. of the Revised 342
Code governing the operation of child day-care centers, 343
including parent cooperative centers, part-time centers, drop-in 344
centers, and school-age child care centers. The rules shall 345
reflect the various forms of child care and the needs of 346
children receiving child care or publicly funded child care and 347
shall include specific rules for school-age child care centers 348
that are developed in consultation with the department of 349
education. The rules shall not require an existing school 350
facility that is in compliance with applicable building codes to 351
undergo an additional building code inspection or to have 352
structural modifications. The rules shall include the following: 353

(A) Submission of a site plan and descriptive plan of 354
operation to demonstrate how the center proposes to meet the 355
requirements of this chapter and rules adopted pursuant to this 356
chapter for the initial license application; 357

(B) Standards for ensuring that the physical surroundings 358
of the center are safe and sanitary including the physical 359
environment, the physical plant, and the equipment of the 360
center; 361

(C) Standards for the supervision, care, and discipline of 362
children receiving child care or publicly funded child care in 363

the center;	364
(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.	365 366 367 368 369 370 371 372 373 374
(E) Admissions policies and procedures;	375
(F) Health care policies and procedures, including procedures for the isolation of children <u>isolating a child with a communicable-diseases disease and discharging that child to a parent or guardian or to a person or sick-child care center designated by the parent or guardian;</u>	376 377 378 379 380
(G) First aid and emergency procedures;	381
(H) Procedures for discipline and supervision of children;	382
(I) Standards for the provision of nutritious meals and snacks;	383 384
(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section 5104.014 of the Revised Code;	385 386 387
(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;	388 389
(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children,	390 391

parents, and employees are protected and that responsibilities	392
of parents and employees are met;	393
(M) Procedures for ensuring the safety and adequate	394
supervision of children traveling off the premises of the center	395
while under the care of a center employee;	396
(N) Procedures for record keeping, organization, and	397
administration;	398
(O) Procedures for issuing, denying, and revoking a	399
license that are not otherwise provided for in Chapter 119. of	400
the Revised Code;	401
(P) Inspection procedures;	402
(Q) Procedures and standards for setting initial license	403
application fees;	404
(R) Procedures for receiving, recording, and responding to	405
complaints about centers;	406
(S) Procedures for enforcing section 5104.04 of the	407
Revised Code;	408
(T) A standard requiring the inclusion of a current	409
department of job and family services toll-free telephone number	410
on each center provisional license or license which any person	411
may use to report a suspected violation by the center of this	412
chapter or rules adopted pursuant to this chapter;	413
(U) Requirements for the training of administrators and	414
child-care staff members, including training in first aid, in	415
prevention, recognition, and management of communicable	416
diseases, and in child abuse recognition and prevention;	417
(V) Standards providing for the special needs of children	418

who are handicapped or who require treatment for health 419
conditions while the child is receiving child care or publicly 420
funded child care in the center; 421

(W) A procedure for reporting of injuries of children that 422
occur at the center; 423

~~(X) Standards for licensing child day care centers for 424
children with short term illnesses and other temporary medical- 425
conditions; 426~~

~~(Y) Minimum requirements for instructional time for child 427
day-care centers rated through the step up to quality program 428
established pursuant to section 5104.29 of the Revised Code; 429~~

~~(Z) (Y) Any other procedures and standards necessary to 430
carry out the provisions of this chapter regarding child day- 431
care centers. 432~~

Sec. 5104.0113. The director of job and family services, 433
in consultation with the director of health, shall adopt rules 434
in accordance with Chapter 119. of the Revised Code governing 435
the operation of sick-child care centers. The rules shall be 436
consistent with sections 5104.15 to 5104.17 of the Revised Code 437
and reflect the needs of children with short-term illnesses and 438
other temporary medical conditions. The rules shall include all 439
of the following: 440

(A) Standards for ensuring that the physical environment 441
and equipment of the sick-child care center are safe and 442
sanitary; 443

(B) Standards for the supervision, care, and discipline of 444
children receiving child care in the center; 445

(C) Standards for qualifications and screening of staff 446

<u>members;</u>	447
<u>(D) Standards for training and continuing education of</u>	448
<u>staff members, including recognizing the signs and symptoms of</u>	449
<u>illnesses, administering medications, making referrals to</u>	450
<u>pediatric specialists or facilities, and communicating with</u>	451
<u>caretaker parents;</u>	452
<u>(E) Admissions policies and procedures;</u>	453
<u>(F) Health care policies and procedures, including all of</u>	454
<u>the following:</u>	455
<u>(1) Medical protocols for specific illnesses or symptoms,</u>	456
<u>developed by a physician who is board-certified in family</u>	457
<u>medicine or general pediatrics, as those designations are issued</u>	458
<u>by a medical specialty certifying board recognized by the</u>	459
<u>American board of medical specialties or American osteopathic</u>	460
<u>association;</u>	461
<u>(2) Infection control, including universal and standard</u>	462
<u>precautions that shall be used by each staff member. The rules</u>	463
<u>shall define and establish requirements for universal and</u>	464
<u>standard precautions that include the following:</u>	465
<u>(a) Appropriate use of hand washing;</u>	466
<u>(b) Disinfection and sterilization of equipment, linens,</u>	467
<u>furniture, walls, flooring, toilets, and other objects;</u>	468
<u>(c) Handling and disposal of needles and other sharp</u>	469
<u>instruments;</u>	470
<u>(d) Wearing and disposal of gloves and other protective</u>	471
<u>garments and devices.</u>	472
<u>(G) Emergency procedures, including procedures for making</u>	473

<u>referrals or transfers to pediatric specialists or facilities;</u>	474
<u>(H) Standards for record keeping;</u>	475
<u>(I) Procedures for issuing, denying, and revoking a</u>	476
<u>license that are not otherwise provided for in Chapter 119. of</u>	477
<u>the Revised Code;</u>	478
<u>(J) Inspection procedures;</u>	479
<u>(K) Procedures and standards for setting initial license</u>	480
<u>application fees;</u>	481
<u>(L) Procedures for receiving, recording, and responding to</u>	482
<u>complaints about sick-child care centers;</u>	483
<u>(M) Any other standards and procedures necessary to</u>	484
<u>implement sections 5104.15 to 5104.17 of the Revised Code.</u>	485
<u>Sec. 5104.15. (A) As used in this section and sections</u>	486
<u>5104.16 and 5104.17 of the Revised Code:</u>	487
<u>(1) "Certified nurse practitioner," "licensed practical</u>	488
<u>nurse," and "registered nurse" have the same meanings as in</u>	489
<u>section 4723.01 of the Revised Code.</u>	490
<u>(2) "Nurse aide" has the same meaning as in section</u>	491
<u>3721.21 of the Revised Code.</u>	492
<u>(3) "Physician" means an individual authorized under</u>	493
<u>Chapter 4731. of the Revised Code to practice medicine and</u>	494
<u>surgery or osteopathic medicine and surgery.</u>	495
<u>(B) The director of job and family services is responsible</u>	496
<u>for licensing sick-child care centers. No person, firm,</u>	497
<u>organization, institution, or agency shall operate, establish,</u>	498
<u>manage, conduct, or maintain a sick-child care center without a</u>	499
<u>license issued under this section. The current license shall be</u>	500

posted in a conspicuous place that is accessible to parents, 501
custodians, or guardians and employees of the sick-child care 502
center at all times when it is in operation. 503

(C) (1) Any person, firm, organization, institution, or 504
agency seeking to establish a sick-child care center shall apply 505
for a license to the director of job and family services on such 506
form as the director prescribes. The application shall include 507
all of the following: 508

(a) A site plan and proposal describing how the sick-child 509
care center proposes to satisfy the requirements of this section 510
and sections 5104.16 and 5104.17 of the Revised Code and rules 511
adopted pursuant to section 5104.0113 of the Revised Code; 512

(b) The maximum number of children served by the sick- 513
child care center at one time; 514

(c) The number of adults providing sick-child care for the 515
children; 516

(d) An admissions policy that meets the requirements of 517
section 5104.17 of the Revised Code; 518

(e) Any other information the director considers 519
necessary. 520

(2) Fees shall be set by the director pursuant to section 521
5104.0113 of the Revised Code and shall be paid at the time of 522
application for a license to operate a sick-child care center. 523
Fees collected under this section shall be paid into the state 524
treasury to the credit of the general revenue fund. 525

(D) When an application for a license is filed, the 526
director may investigate and inspect the sick-child care center 527
to determine whether it satisfies the requirements of this 528

section and sections 5104.16 and 5104.17 of the Revised Code and 529
rules adopted pursuant to section 5104.0113 of the Revised Code. 530
When the director is so satisfied, a license shall be issued as 531
soon as practicable in such form and manner as prescribed by the 532
director. Each sick-child care center license shall state the 533
name of the licensee, the name of the administrator, and the 534
address of the sick-child care center. The license shall be 535
valid until it is surrendered to the director or revoked. 536

(E) The director may deny an application or revoke a 537
license of a sick-child care center if it does not comply with 538
the requirements of this section and sections 5104.16 and 539
5104.17 of the Revised Code and rules adopted pursuant to 540
section 5104.0113 of the Revised Code. 541

(F) If the director finds, after notice and hearing 542
pursuant to Chapter 119. of the Revised Code, that any 543
applicant, person, firm, organization, institution, or agency 544
applying for licensure or licensed under this section is in 545
violation of any provision of this section and sections 5104.16 546
to 5104.18 of the Revised Code and rules adopted pursuant to 547
section 5104.0113 of the Revised Code, the director may issue an 548
order of denial to the applicant or an order of revocation to 549
the sick-child care center revoking the license previously 550
issued by the director. Upon the issuance of such an order, the 551
person whose application is denied or whose license is revoked 552
may appeal in accordance with section 119.12 of the Revised 553
Code. 554

(G) The surrender of a sick-child care center license to 555
the director or the withdrawal of an application for licensure 556
shall not prohibit the director from instituting any of the 557
actions set forth in this section. 558

(H) The director, upon determining that the sick-child care center is operating without a license, shall notify the attorney general, the prosecuting attorney of the county in which the sick-child care center is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the sick-child care center is located, that the sick-child care center is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the sick-child care center is located requesting that the court grant an order enjoining the owner from operating the sick-child care center in violation of this section. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a sick-child care center and is doing so without a license. 559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575

Sec. 5104.16. (A) A sick-child care center shall satisfy all of the following requirements: 576
577

(1) Have a physician, certified nurse practitioner, or registered nurse on the premises whenever children are in care; 578
579

(2) Have a licensed practical nurse or nurse aide on the premises whenever children are in care; 580
581

(3) Have a maximum number of children per staff member of four to one; 582
583

(4) Have a maximum number of preschool-age children or school-age children receiving care in each room of two to one; 584
585

(5) Provide a separate room for evaluating children before admission; 586
587

- (6) Provide a separate room for children recovering from illness who are no longer contagious; 588
589
- (7) If the sick-child care center admits children exhibiting symptoms of or diagnosed with chicken pox, provide a separate room for the care of those children that is ventilated separately from the rest of the sick-child care center; 590
591
592
593
- (8) Provide a separate room for children exhibiting symptoms of gastrointestinal illnesses; 594
595
- (9) For each room where child care is provided, include within the room or immediately adjacent to the room at least one toilet and one sink; 596
597
598
- (10) Have an area set aside for play, entertainment, education, and other activities; 599
600
- (11) Provide each child with a crib, bed, or cot, depending upon the child's age or physical size, and appropriate bed linens for the child's own use while at the sick-child care center; 601
602
603
604
- (12) Install electrical outlet covers or plates, childproof window locks and door latches, corner and edge bumpers for sharp edges, and nonslip, easily maintained floor surfaces; 605
606
607
608
- (13) Meet the guidelines for hand hygiene in health care settings developed by the federal centers for disease control and prevention; 609
610
611
- (14) Meet the standards regarding blood borne pathogens in health care settings developed by the federal occupational safety and health administration; 612
613
614
- (15) Have a referral network that provides for timely 615

consultation with pediatric subspecialists and, when necessary, 616
transfer of children to a hospital that offers more advanced 617
pediatric care, including access to an air and ground 618
transportation system that is responsive and appropriately 619
equipped and staffed to care for children of all ages. 620

(B) A sick-child care center's health care policies and 621
procedures shall be reviewed quarterly by a physician, certified 622
nurse practitioner, or registered nurse. 623

(C) A sick-child care center shall not provide child care 624
for any child who is not sick or does not have another short- 625
term medical condition. Rooms used to provide child care for 626
sick children shall not be used for any other child care purpose 627
at any time. 628

Sec. 5104.17. (A) (1) Each sick-child care center shall 629
develop a written policy governing the admission of children to 630
receive child care. The admissions policy shall include a 631
description of the types of illnesses and injuries for which a 632
child may be admitted to the sick-child care center and the 633
types for which a child may be excluded. 634

(2) At the following intervals, the admissions policy 635
shall be reviewed and approved by a physician who is board- 636
certified in family medicine or general pediatrics, as those 637
designations are issued by a medical specialty certifying board 638
recognized by the American board of medical specialties or 639
American osteopathic association, in consultation with a 640
physician, certified nurse practitioner, or registered nurse 641
affiliated with the sick-child care center who performs or will 642
perform the evaluations described in division (B) of this 643
section: 644

- (a) At the time of initial application for licensure; 645
- (b) After the first six months of operation; 646
- (c) Annually, after the first six months of operation. 647
- (3) An applicant for a license under section 5104.15 of 648
the Revised Code shall include a report of the reviewing 649
physician's findings and the approved admissions policy with the 650
application for licensure. Subsequent reports of the reviewing 651
physician shall be kept on file at the sick-child care center 652
and made available for inspection. 653
- (B) (1) A sick-child care center shall evaluate each child 654
before admitting the child to the sick-child care center. A 655
physician, certified nurse practitioner, or registered nurse 656
affiliated with the sick-child care center shall perform the 657
evaluation. An evaluation shall be performed for each day that 658
the child seeks admission to the sick-child care center. The 659
evaluation shall be based on all of the following: 660
- (a) The child's symptoms; 661
- (b) The likelihood of contagion; 662
- (c) The health risks presented to other individuals; 663
- (d) The sick-child care center's ability to provide 664
adequate care; 665
- (e) The sick-child care center's admissions policy. 666
- (2) The sick-child care center shall conduct a preliminary 667
evaluation over the telephone or internet before the caretaker 668
parent brings the child to the sick-child care center. Based on 669
the preliminary evaluation, the physician, certified nurse 670
practitioner, or registered nurse shall notify the caretaker 671

parent whether the caretaker parent may bring the child to the 672
sick-child care center for further evaluation. 673

(3) If the physician, certified nurse practitioner, or 674
registered nurse determines that the caretaker parent may bring 675
the child to the center and the child is brought to the center, 676
a second evaluation shall be performed before admission. This 677
evaluation shall include a physical examination of the child, an 678
assessment of the child's symptoms, and the taking of a medical 679
history. 680

(C) The decision of a physician, certified nurse 681
practitioner, or registered nurse not to admit a child to the 682
sick-child care center is final. 683

(D) Upon admission, the sick-child care center shall 684
provide to the child's caretaker parent a summary of its 685
policies and procedures, including its procedures for notifying 686
the caretaker parent in the event of an emergency. 687

Sec. 5104.99. (A) Whoever violates section 5104.02 of the 688
Revised Code shall be punished as follows: 689

(1) For each offense, the offender shall be fined not less 690
than one hundred dollars nor more than five hundred dollars 691
multiplied by the number of children receiving child care at the 692
child day-care center or type A family day-care home that either 693
exceeds the number of children to which a type B family day-care 694
home may provide child care or, if the offender is a licensed 695
type A family day-care home that is operating as a child day- 696
care center without being licensed as a center, exceeds the 697
license capacity of the type A home. 698

(2) In addition to the fine specified in division (A) (1) 699
of this section, all of the following apply: 700

(a) Except as provided in divisions (A) (2) (b), (c), and 701
(d) of this section, the court shall order the offender to 702
reduce the number of children to which it provides child care to 703
a number that does not exceed either the number of children to 704
which a type B family day-care home may provide child care or, 705
if the offender is a licensed type A family day-care home that 706
is operating as a child day-care center without being licensed 707
as a center, the license capacity of the type A home. 708

(b) If the offender previously has been convicted of or 709
pleaded guilty to one violation of section 5104.02 of the 710
Revised Code, the court shall order the offender to cease the 711
provision of child care to any person until it obtains a child 712
day-care center license or a type A family day-care home 713
license, as appropriate, under section 5104.03 of the Revised 714
Code. 715

(c) If the offender previously has been convicted of or 716
pleaded guilty to two violations of section 5104.02 of the 717
Revised Code, the offender is guilty of a misdemeanor of the 718
first degree, and the court shall order the offender to cease 719
the provision of child care to any person until it obtains a 720
child day-care center license or a type A family day-care home 721
license, as appropriate, under section 5104.03 of the Revised 722
Code. The court shall impose the fine specified in division (A) 723
(1) of this section and may impose an additional fine provided 724
that the total amount of the fines so imposed does not exceed 725
the maximum fine authorized for a misdemeanor of the first 726
degree under section 2929.28 of the Revised Code. 727

(d) If the offender previously has been convicted of or 728
pleaded guilty to three or more violations of section 5104.02 of 729
the Revised Code, the offender is guilty of a felony of the 730

fifth degree, and the court shall order the offender to cease 731
the provision of child care to any person until it obtains a 732
child day-care center license or a type A family day-care home 733
license, as appropriate, under section 5104.03 of the Revised 734
Code. The court shall impose the fine specified in division (A) 735
(1) of this section and may impose an additional fine provided 736
that the total amount of the fines so imposed does not exceed 737
the maximum fine authorized for a felony of the fifth degree 738
under section 2929.18 of the Revised Code. 739

(B) Whoever violates division (M) (4) of section 5104.013 740
of the Revised Code is guilty of a misdemeanor of the first 741
degree. If the offender is a licensee of a center, type A home, 742
or licensed type B home, the conviction shall constitute grounds 743
for denial or revocation of an application for licensure 744
pursuant to section 5104.04 of the Revised Code. Except as 745
otherwise provided in this division, the offense established 746
under division (M) (4) of section 5104.013 of the Revised Code is 747
a strict liability offense, and section 2901.20 of the Revised 748
Code does not apply. If the offender is a person eighteen years 749
of age or older residing in a type A home or licensed type B 750
home or is an employee of a center, type A home, or licensed 751
type B home and if the licensee had knowledge of, and acquiesced 752
in, the commission of the offense, the conviction shall 753
constitute grounds for denial or revocation of an application 754
for licensure pursuant to section 5104.04 of the Revised Code. 755

(C) Whoever violates section 5104.09 of the Revised Code 756
is guilty of a misdemeanor of the third degree. 757

(D) Whoever violates section 5104.15 of the Revised Code 758
shall be punished as follows: 759

(1) For each offense, the offender shall be fined not less 760

than one hundred dollars nor more than five hundred dollars 761
multiplied by the average number of children per day receiving 762
child care at the sick-child care center. 763

(2) In addition to the fine specified in division (D)(1) 764
of this section, all of the following apply: 765

(a) Except as provided in divisions (D)(2)(b), (c), and 766
(d) of this section, the court shall order the offender to 767
reduce the number of children for which it provides child care 768
to a number that does not exceed the number of children for 769
which a type B family day-care home may provide child care. 770

(b) If the offender previously has been convicted of or 771
pleaded guilty to one violation of section 5104.15 of the 772
Revised Code, the court shall order the offender to cease the 773
provision of child care for any child until it obtains a sick- 774
child care center license under section 5104.15 of the Revised 775
Code. 776

(c) If the offender previously has been convicted of or 777
pleaded guilty to two violations of section 5104.15 of the 778
Revised Code, the offender is guilty of a misdemeanor of the 779
first degree, and the court shall order the offender to cease 780
the provision of child care for any child until it obtains a 781
sick-child care center license under section 5104.15 of the 782
Revised Code. The court shall impose the fine specified in 783
division (D)(1) of this section and may impose an additional 784
fine provided that the total amount of the fines so imposed does 785
not exceed the maximum fine authorized for a misdemeanor of the 786
first degree under section 2929.28 of the Revised Code. 787

(d) If the offender previously has been convicted of or 788
pleaded guilty to three or more violations of section 5104.15 of 789

the Revised Code, the offender is guilty of a felony of the 790
fifth degree, and the court shall order the offender to cease 791
the provision of child care for any child until it obtains a 792
sick-child care center license under section 5104.15 of the 793
Revised Code. The court shall impose the fine specified in 794
division (D)(1) of this section and may impose an additional 795
fine provided that the total amount of the fines so imposed does 796
not exceed the maximum fine authorized for a felony of the fifth 797
degree under section 2929.18 of the Revised Code. 798

Section 2. That existing sections 5104.01, 5104.015, and 799
5104.99 of the Revised Code are hereby repealed. 800