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**132nd General Assembly**

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**Sub. H. B. No. 286**

**Representative LaTourette**

**Cosponsors: Representatives Arndt, Schaffer, Schuring, Anielski, Antonio, Ashford, Barnes, Blessing, Boggs, Boyd, Brenner, Brown, Carfagna, Celebrezze, Cera, Clyde, Craig, Cupp, Dean, DeVitis, Edwards, Faber, Fedor, Galonski, Gavarone, Ginter, Green, Greenspan, Hagan, Hambley, Hill, Holmes, Howse, Huffman, Hughes, Ingram, Kick, Landis, Lang, Leland, Lepore-Hagan, Lipps, Manning, McColley, Miller, O'Brien, Patterson, Patton, Pelanda, Perales, Ramos, Reece, Reineke, Rezabek, Riedel, Rogers, Ryan, Scherer, Seitz, Sheehy, Smith, K., Smith, R., Sprague, Stein, Sweeney, Sykes, Thompson, West, Young, Speaker Rosenberger**

**Senators Beagle, Burke, Coley, Eklund, Gardner, Hackett, Huffman, Kunze, Lehner, Manning, Oelslager, Peterson, Schiavoni, Tavares, Terhar, Thomas, Yuko**

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**A BILL**

|   |    |
|---|----|
| To amend sections 3702.51, 3702.594, 3712.01, and | 1  |
| 4731.054 and to enact sections 3701.36,           | 2  |
| 3701.361, 3701.362, 3712.10, and 3712.11 of the   | 3  |
| Revised Code to create the Palliative Care and    | 4  |
| Quality of Life Interdisciplinary Council and a   | 5  |
| related education program, to require             | 6  |
| identification of patients and residents who      | 7  |
| could benefit from palliative care, to authorize  | 8  |
| hospice care programs to provide palliative care  | 9  |
| in their inpatient facilities or units to non-    | 10 |
| hospice patients, to specify that Medicaid        | 11 |
| coverage for palliative care is not being         | 12 |
| expanded, to modify the pain management clinic    | 13 |
| licensing law relative to certain palliative      | 14 |
| care patients, and to authorize the Director of   | 15 |

Health to approve the transfer of certain 16  
nursing home beds to a facility in a contiguous 17  
county. 18

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

**Section 1.** That sections 3702.51, 3702.594, 3712.01, and 19  
4731.054 be amended and sections 3701.36, 3701.361, 3701.362, 20  
3712.10, and 3712.11 of the Revised Code be enacted to read as 21  
follows: 22

**Sec. 3701.36.** (A) As used in this section and in sections 23  
3701.361 and 3701.362 of the Revised Code, "palliative care" has 24  
the same meaning as in section 3712.01 of the Revised Code. 25

(B) There is hereby created the palliative care and 26  
quality of life interdisciplinary council. Subject to division 27  
(C) of this section, members of the council shall be appointed 28  
by the director of health and include individuals with expertise 29  
in palliative care who represent the following professions or 30  
constituencies: 31

(1) Physicians authorized under Chapter 4731. of the 32  
Revised Code to practice medicine and surgery or osteopathic 33  
medicine and surgery, including those who are board-certified in 34  
pediatrics and those who are board-certified in psychiatry, as 35  
those designations are issued by a medical specialty certifying 36  
board recognized by the American board of medical specialties or 37  
American osteopathic association; 38

(2) Physician assistants licensed under Chapter 4730. of 39  
the Revised Code; 40

(3) Advanced practice registered nurses licensed under 41  
Chapter 4723. of the Revised Code who are designated as clinical 42  
nurse specialists or certified nurse practitioners; 43

(4) Registered nurses and licensed practical nurses 44  
licensed under Chapter 4723. of the Revised Code; 45

(5) Pharmacists licensed under Chapter 4729. of the 46  
Revised Code; 47

(6) Psychologists licensed under Chapter 4732. of the 48  
Revised Code; 49

(7) Licensed professional clinical counselors or licensed 50  
professional counselors licensed under Chapter 4757. of the 51  
Revised Code; 52

(8) Independent social workers or social workers licensed 53  
under Chapter 4757. of the Revised Code; 54

(9) Marriage and family therapists licensed under Chapter 55  
4757. of the Revised Code; 56

(10) Child life specialists; 57

(11) Clergy or spiritual advisers; 58

(12) Exercise physiologists; 59

(13) Health insurers; 60

(14) Patients; 61

(15) Family caregivers. 62

The council's membership also may include employees of 63  
agencies of this state that administer programs pertaining to 64  
palliative care or are otherwise concerned with the delivery of 65  
palliative care in this state. 66

(C) The council's membership shall include individuals who 67  
have worked with various age groups, including children and the 68  
elderly. The council's membership also shall include individuals 69  
who have experience or expertise in various palliative care 70  
delivery models, including acute care, long-term care, hospice 71  
care, home health agency services, home-based care, and 72  
spiritual care. At least two members shall be physicians who are 73  
board-certified in hospice and palliative care by a medical 74  
specialty certifying board recognized by the American board of 75  
medical specialties or American osteopathic association. At 76  
least one member shall be employed as an administrator of a 77  
hospital or system of hospitals in this state or be a 78  
professional specified in divisions (B) (1) to (10) or division 79  
(B) (12) of this section who treats patients as an employee or 80  
contractor of such a hospital or system of hospitals. 81

Not more than twenty individuals shall serve as members of 82  
the council at any one time. Not more than two members shall be 83  
employed by the same health care facility or provider or 84  
practice at or for the same health care facility or provider. 85

In making appointments to the council, the director shall 86  
seek to include as members individuals who represent underserved 87  
areas of the state and to have all geographic areas of the state 88  
represented. 89

(D) The director shall make initial appointments to the 90  
council not later than ninety days after the effective date of 91  
this section. Terms of office shall be three years. Each member 92  
shall hold office from the date of appointment until the end of 93  
the term for which the member was appointed. In the event of 94  
death, removal, resignation, or incapacity of a council member, 95  
the director shall appoint a successor who shall hold office for 96

the remainder of the term for which the successor's predecessor 97  
was appointed. A member shall continue in office subsequent to 98  
the expiration date of the member's term until the member's 99  
successor takes office or until a period of sixty days has 100  
elapsed, whichever occurs first. 101

The council shall meet at the call of the director, but 102  
not less than twice annually. The council shall select annually 103  
from among its members a chairperson and vice-chairperson, whose 104  
duties shall be established by the council. 105

Each member shall serve without compensation, except to 106  
the extent that serving on the council is considered part of the 107  
member's regular employment duties. 108

(E) The council shall do all of the following: 109

(1) Consult with and advise the director on matters 110  
related to the establishment, maintenance, operation, and 111  
evaluation of palliative care initiatives in this state; 112

(2) Consult with the department of health for purposes of 113  
its implementation of section 3701.361 of the Revised Code; 114

(3) Identify national organizations that have established 115  
standards of practice and best practice models for palliative 116  
care; 117

(4) Identify initiatives established at the national and 118  
state levels aimed at integrating palliative care into the 119  
health care system and enhancing the use and development of 120  
palliative care; 121

(5) Establish guidelines for health care facilities and 122  
providers to use under section 3701.362 of the Revised Code in 123  
identifying patients and residents who could benefit from 124

palliative care; 125

(6) On or before December 31 of each year, prepare and 126  
submit to the governor, general assembly, director of health, 127  
director of aging, superintendent of insurance, medicaid 128  
director, and executive director of the office of health 129  
transformation a report of recommendations for improving the 130  
provision of palliative care in this state. 131

The council shall submit the report to the general 132  
assembly in accordance with section 101.68 of the Revised Code. 133

(F) The department of health shall provide to the council 134  
the administrative support necessary to execute its duties. At 135  
the request of the council, the department shall examine 136  
potential sources of funding to assist with any duties described 137  
in this section or sections 3701.361 and 3701.362 of the Revised 138  
Code. 139

(G) The council is not subject to sections 101.82 to 140  
101.87 of the Revised Code. 141

**Sec. 3701.361.** The palliative care consumer and 142  
professional information and education program is hereby 143  
established in the department of health. The purpose of the 144  
program is to maximize the effectiveness of palliative care 145  
initiatives in this state by ensuring that comprehensive and 146  
accurate information and education on palliative care is 147  
available to health care facilities, other health care 148  
providers, and the public. 149

The department shall publish on its internet web site 150  
information on palliative care, including information on 151  
continuing education opportunities for health care 152  
professionals; information about palliative care delivery in a 153

patient's home and in primary, secondary, and tertiary 154  
environments; best practices for palliative care delivery; and 155  
consumer educational materials and referral information on 156  
palliative care, including hospice. The department may develop 157  
and implement other initiatives regarding palliative care and 158  
education as the department considers appropriate. 159

In implementing this section, the department shall consult 160  
with the palliative care and quality of life interdisciplinary 161  
council created under section 3701.36 of the Revised Code. 162

**Sec. 3701.362.** (A) Each of the health care facilities and 163  
providers identified in division (B) of this section shall do 164  
both of the following: 165

(1) Establish a system for identifying patients or 166  
residents who could benefit from palliative care; 167

(2) Provide information on palliative care to patients and 168  
residents who could benefit from palliative care. 169

(B) Division (A) of this section applies to all of the 170  
following: 171

(1) A hospital registered under section 3701.07 of the 172  
Revised Code; 173

(2) An ambulatory surgical facility, as defined in section 174  
3702.30 of the Revised Code; 175

(3) A nursing home, residential care facility, county 176  
home, or district home, as defined in section 3721.01 of the 177  
Revised Code; 178

(4) A veterans' home operated under Chapter 5907. of the 179  
Revised Code; 180

(5) A hospice care program or pediatric respite care 181  
program, as defined in section 3712.01 of the Revised Code; 182

(6) A home health agency, as defined in section 3701.881 183  
of the Revised Code. 184

**Sec. 3702.51.** As used in sections 3702.51 to 3702.62 of 185  
the Revised Code: 186

(A) "Applicant" means any person that submits an 187  
application for a certificate of need and who is designated in 188  
the application as the applicant. 189

(B) "Person" means any individual, corporation, business 190  
trust, estate, firm, partnership, association, joint stock 191  
company, insurance company, government unit, or other entity. 192

(C) "Certificate of need" means a written approval granted 193  
by the director of health to an applicant to authorize 194  
conducting a reviewable activity. 195

(D) "Service area" means the current and projected primary 196  
and secondary service areas to which the long-term care facility 197  
is, or will be, providing long-term care services. 198

(E) "Primary service area" means the geographic region, 199  
usually comprised of the Ohio zip code in which the long-term 200  
care facility is located and contiguous zip codes, from which 201  
approximately seventy-five to eighty per cent of the facility's 202  
residents currently originate or are expected to originate. 203

(F) "Secondary service area" means the geographic region, 204  
usually comprised of Ohio zip codes not included in the primary 205  
service area, excluding isolated exceptions, from which the 206  
facility's remaining residents currently originate or are 207  
expected to originate. 208



(G) "Third-party payer" means a health insuring 209  
corporation licensed under Chapter 1751. of the Revised Code, a 210  
health maintenance organization as defined in division (I) of 211  
this section, an insurance company that issues sickness and 212  
accident insurance in conformity with Chapter 3923. of the 213  
Revised Code, a state-financed health insurance program under 214  
Chapter 3701. or 4123. of the Revised Code, the medicaid 215  
program, or any self-insurance plan. 216

(H) "Government unit" means the state and any county, 217  
municipal corporation, township, or other political subdivision 218  
of the state, or any department, division, board, or other 219  
agency of the state or a political subdivision. 220

(I) "Health maintenance organization" means a public or 221  
private organization organized under the law of any state that 222  
is qualified under section 1310(d) of Title XIII of the "Public 223  
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 224

(J) "Existing long-term care facility" means either of the 225  
following: 226

(1) A long-term care facility that is licensed or 227  
otherwise authorized to operate in this state in accordance with 228  
applicable law, including a county home or a county nursing home 229  
that is certified under Title XVIII or Title XIX of the "Social 230  
Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, 231  
is staffed and equipped to provide long-term care services, and 232  
is actively providing long-term care services; 233

(2) A long-term care facility that is licensed or 234  
otherwise authorized to operate in this state in accordance with 235  
applicable law, including a county home or a county nursing home 236  
that is certified under Title XVIII or Title XIX of the "Social 237

Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, 238  
or that has beds registered under section 3701.07 of the Revised 239  
Code as skilled nursing beds or long-term care beds and has 240  
provided long-term care services for at least three hundred 241  
sixty-five consecutive days within the twenty-four months 242  
immediately preceding the date a certificate of need application 243  
is filed with the director of health. 244

(K) "State" means the state of Ohio, including, but not 245  
limited to, the general assembly, the supreme court, the offices 246  
of all elected state officers, and all departments, boards, 247  
offices, commissions, agencies, institutions, and other 248  
instrumentalities of the state of Ohio. "State" does not include 249  
political subdivisions. 250

(L) "Political subdivision" means a municipal corporation, 251  
township, county, school district, and all other bodies 252  
corporate and politic responsible for governmental activities 253  
only in geographic areas smaller than that of the state to which 254  
the sovereign immunity of the state attaches. 255

(M) "Affected person" means: 256

(1) An applicant for a certificate of need, including an 257  
applicant whose application was reviewed comparatively with the 258  
application in question; 259

(2) The person that requested the reviewability ruling in 260  
question; 261

(3) Any person that resides or regularly uses long-term 262  
care facilities within the service area served or to be served 263  
by the long-term care services that would be provided under the 264  
certificate of need or reviewability ruling in question; 265

(4) Any long-term care facility that is located in the 266

service area where the long-term care services would be provided 267  
under the certificate of need or reviewability ruling in 268  
question; 269

(5) Third-party payers that reimburse long-term care 270  
facilities for services in the service area where the long-term 271  
care services would be provided under the certificate of need or 272  
reviewability ruling in question. 273

(N) "Long-term care facility" means, except as provided in 274  
section 3702.594 of the Revised Code, any of the following: 275

(1) A nursing home licensed under section 3721.02 of the 276  
Revised Code or by a political subdivision certified under 277  
section 3721.09 of the Revised Code; 278

(2) The portion of any facility, including a county home 279  
or county nursing home, that is certified as a skilled nursing 280  
facility or a nursing facility under Title XVIII or XIX of the 281  
"Social Security Act"; 282

(3) The portion of any hospital that contains beds 283  
registered under section 3701.07 of the Revised Code as skilled 284  
nursing beds or long-term care beds. 285

(O) "Long-term care bed" or "bed" means a bed that is 286  
categorized as one of the following: 287

(1) A bed that is located in a facility that is a nursing 288  
home licensed under section 3721.02 of the Revised Code or a 289  
facility licensed by a political subdivision certified under 290  
section 3721.09 of the Revised Code and is included in the 291  
authorized maximum licensed capacity of the facility; 292

(2) A bed that is located in the portion of any facility, 293  
including a county home or county nursing home, that is 294

certified as a skilled nursing facility under the medicare 295  
program or a nursing facility under the medicaid program and is 296  
included in the authorized maximum certified capacity of that 297  
portion of the facility; 298

(3) A bed that is registered under section 3701.07 of the 299  
Revised Code as a skilled nursing bed, a long-term care bed, or 300  
a special skilled nursing bed; 301

(4) A bed in a county home or county nursing home that has 302  
been certified under section 5155.38 of the Revised Code as 303  
having been in operation on July 1, 1993, and is eligible for 304  
licensure as a nursing home bed; 305

(5) A bed held as an approved bed under a certificate of 306  
need approved by the director. 307

A bed cannot simultaneously be both a bed described in 308  
division (O) (1), (2), (3), or (4) of this section and a bed 309  
described in division (O) (5) of this section. 310

(P) "Reviewability ruling" means a ruling issued by the 311  
director of health under division (A) of section 3702.52 of the 312  
Revised Code as to whether a particular proposed project is or 313  
is not a reviewable activity. 314

(Q) "County nursing home" has the same meaning as in 315  
section 5155.31 of the Revised Code. 316

(R) "Principal participant" means both of the following: 317

(1) A person who has an ownership or controlling interest 318  
of at least five per cent in an applicant, in a long-term care 319  
facility that is the subject of an application for a certificate 320  
of need, or in the owner or operator of the applicant or such a 321  
facility; 322

(2) An officer, director, trustee, or general partner of 323  
an applicant, of a long-term care facility that is the subject 324  
of an application for a certificate of need, or of the owner or 325  
operator of the applicant or such a facility. 326

(S) "Actual harm but not immediate jeopardy deficiency" 327  
means a deficiency that, under 42 C.F.R. 488.404, either 328  
constitutes a pattern of deficiencies resulting in actual harm 329  
that is not immediate jeopardy or represents widespread 330  
deficiencies resulting in actual harm that is not immediate 331  
jeopardy. 332

(T) "Immediate jeopardy deficiency" means a deficiency 333  
that, under 42 C.F.R. 488.404, either constitutes a pattern of 334  
deficiencies resulting in immediate jeopardy to resident health 335  
or safety or represents widespread deficiencies resulting in 336  
immediate jeopardy to resident health or safety. 337

(U) "Existing bed" or "existing long-term care bed" means 338  
a bed from an existing long-term care facility, a bed described 339  
in division (O) (5) of this section, or a bed correctly reported 340  
as a long-term care bed pursuant to section 5155.38 of the 341  
Revised Code. 342

**Sec. 3702.594.** (A) ~~The~~ As used in this section, "long-term 343  
care facility" means either of the following: 344

(1) A nursing home licensed under section 3721.02 of the 345  
Revised Code or by a political subdivision certified under 346  
section 3721.09 of the Revised Code; 347

(2) The portion of any facility, including a county home 348  
or county nursing home, that is certified as a skilled nursing 349  
facility under the medicare program, Title XVIII of the "Social 350  
Security Act," 42 U.S.C. 1395, as amended, or as a nursing 351

facility under the medicaid program, Title XIX of the "Social 352  
Security Act," 42 U.S.C. 1396, as amended. 353

(B) Subject to division (C) of this section, the 354  
of health shall accept, for review under section 3702.52 of the 355  
Revised Code, certificate of need applications for an increase 356  
in beds in an existing ~~nursing home~~ long-term care facility if 357  
all of the following conditions are met: 358

(1) The proposed increase is attributable solely to a 359  
relocation of ~~licensed nursing home~~ long-term care beds from an 360  
existing ~~nursing home~~ long-term care facility to another 361  
existing ~~nursing home~~ long-term care facility located in a 362  
county that is contiguous to the county from which the beds are 363  
to be relocated; 364

(2) Not more than a total of thirty ~~nursing home~~ beds are 365  
proposed for relocation to the same existing ~~nursing home~~ long- 366  
term care facility, regardless of the number of applications 367  
filed. ~~Once the cumulative total of beds relocated under this~~ 368  
~~section to a nursing home reaches thirty, no further~~ 369  
~~applications under this section will be accepted until the~~ 370  
~~period of monitoring specified in division (E) of section~~ 371  
~~3702.52 of the Revised Code of the most recent reviewable~~ 372  
~~activity implemented under this section has expired;~~ 373

(3) After the proposed relocation, there will be existing 374  
~~nursing home~~ beds remaining in the county from which the beds 375  
are relocated; 376

~~(4) The beds are proposed to be licensed as nursing home~~ 377  
~~beds under Chapter 3721. of the Revised Code.~~ 378

~~(B)~~ (C) The director shall accept applications described 379  
in division ~~(A)~~ (B) of this section at any time, except that 380

once the cumulative total of beds relocated under this section 381  
reaches thirty, no further applications shall be accepted until 382  
the period of monitoring specified in division (E) of section 383  
3702.52 of Revised Code of the most recent reviewable activity 384  
implemented under this section has expired. 385

**Sec. 3712.01.** As used in this chapter: 386

(A) "Hospice care program" means a coordinated program of 387  
home, outpatient, and inpatient care and services that is 388  
operated by a person or public agency and that provides the 389  
following care and services to hospice patients, including 390  
services as indicated below to hospice patients' families, 391  
through a medically directed interdisciplinary team, under 392  
interdisciplinary plans of care established pursuant to section 393  
3712.06 of the Revised Code, in order to meet the physical, 394  
psychological, social, spiritual, and other special needs that 395  
are experienced during the final stages of illness, dying, and 396  
bereavement: 397

(1) Nursing care by or under the supervision of a 398  
registered nurse; 399

(2) Physical, occupational, or speech or language therapy, 400  
unless waived by the department of health pursuant to rules 401  
adopted under division (A) of section 3712.03 of the Revised 402  
Code; 403

(3) Medical social services by a social worker under the 404  
direction of a physician; 405

(4) Services of a home health aide; 406

(5) Medical supplies, including drugs and biologicals, and 407  
the use of medical appliances; 408

|   |   |
|---|---|
| (6) Physician's services;   | 409   |
| (7) Short-term inpatient care, including both palliative<br>and respite care and procedures;  | 410<br>411                                    |
| (8) Counseling for hospice patients and hospice patients'<br>families;  | 412<br>413                                    |
| (9) Services of volunteers under the direction of the<br>provider of the hospice care program;  | 414<br>415                                    |
| (10) Bereavement services for hospice patients' families.   | 416   |
| "Hospice care program" does not include a pediatric<br>respite care program.  | 417<br>418                                    |
| (B) "Hospice patient" means a patient, other than a<br>pediatric respite care patient, who has been diagnosed as<br>terminally ill, has an anticipated life expectancy of six months<br>or less, and has voluntarily requested and is receiving care<br>from a person or public agency licensed under this chapter to<br>provide a hospice care program.  | 419<br>420<br>421<br>422<br>423<br>424        |
| (C) "Hospice patient's family" means a hospice patient's<br>immediate family members, including a spouse, brother, sister,<br>child, or parent, and any other relative or individual who has<br>significant personal ties to the patient and who is designated<br>as a member of the patient's family by mutual agreement of the<br>patient, the relative or individual, and the patient's<br>interdisciplinary team. | 425<br>426<br>427<br>428<br>429<br>430<br>431 |
| (D) "Interdisciplinary team" means a working unit composed<br>of professional and lay persons that includes at least a<br>physician, a registered nurse, a social worker, a member of the<br>clergy or a counselor, and a volunteer.  | 432<br>433<br>434<br>435                      |
| (E) "Palliative care" means <del>treatment</del> <u>specialized care</u> for  | 436   |



a patient of any age who has been diagnosed with a serious or 437  
life-threatening illness directed at controlling pain, relieving 438  
other symptoms, and enhancing the quality of life of the patient 439  
and the patient's family rather than treatment for the purpose 440  
of cure that is provided at any stage of the illness by an 441  
interdisciplinary team working in consultation with other health 442  
care professionals, including those who may be seeking to cure 443  
the illness, and that aims to do all of the following: 444

(1) Relieve the symptoms, stress, and suffering resulting 445  
from the illness; 446

(2) Improve the quality of life of the patient and the 447  
patient's family; 448

(3) Address the patient's physical, emotional, social, and 449  
spiritual needs; 450

(4) Facilitate patient autonomy, access to information, 451  
and medical decision making. 452

~~Nothing in this section shall be interpreted to mean that~~ 453  
~~palliative care can be provided only as a component of a hospice~~ 454  
~~care program or pediatric respite care program.~~ 455

(F) "Physician" means a person authorized under Chapter 456  
4731. of the Revised Code to practice medicine and surgery or 457  
osteopathic medicine and surgery. 458

(G) "Attending physician" means the physician identified 459  
by the hospice patient, pediatric respite care patient, hospice 460  
patient's family, or pediatric respite care patient's family as 461  
having primary responsibility for the medical care of the 462  
hospice patient or pediatric respite care patient. 463

(H) "Registered nurse" means a person registered under 464

Chapter 4723. of the Revised Code to practice professional 465  
nursing. 466

(I) "Social worker" means a person licensed under Chapter 467  
4757. of the Revised Code to practice as a social worker or 468  
independent social worker. 469

(J) "Pediatric respite care program" means a program 470  
operated by a person or public agency that provides inpatient 471  
respite care and related services, including all of the 472  
following services, only to pediatric respite care patients and, 473  
as indicated below, pediatric respite care patients' families, 474  
in order to meet the physical, psychological, social, spiritual, 475  
and other special needs that are experienced during or leading 476  
up to the final stages of illness, dying, and bereavement: 477

(1) Short-term inpatient care, including both palliative 478  
and respite care and procedures; 479

(2) Nursing care by or under the supervision of a 480  
registered nurse; 481

(3) Physician's services; 482

(4) Medical social services by a social worker under the 483  
direction of a physician; 484

(5) Medical supplies, including drugs and biologicals, and 485  
the use of medical appliances; 486

(6) Counseling for pediatric respite care patients and 487  
pediatric respite care patients' families; 488

(7) Bereavement services for respite care patients' 489  
families. 490

"Pediatric respite care program" does not include a 491

hospice care program. 492

(K) "Pediatric respite care patient" means a patient, 493  
other than a hospice patient, who is less than twenty-seven 494  
years of age and to whom all of the following conditions apply: 495

(1) The patient has been diagnosed with a disease or 496  
condition that is life-threatening and is expected to shorten 497  
the life expectancy that would have applied to the patient 498  
absent the patient's diagnosis, regardless of whether the 499  
patient is terminally ill. 500

(2) The diagnosis described in division (K) (1) of this 501  
section occurred while the patient was less than eighteen years 502  
of age. 503

(3) The patient has voluntarily requested and is receiving 504  
care from a person or public agency licensed under this chapter 505  
to provide a pediatric respite care program. 506

(L) "Pediatric respite care patient's family" means a 507  
pediatric respite care patient's family members, including a 508  
spouse, brother, sister, child, or parent, and any other 509  
relative or individual who has significant personal ties to the 510  
patient and who is designated as a member of the patient's 511  
family by mutual agreement of the patient, the relative or 512  
individual, and the patient's interdisciplinary team. 513

Sec. 3712.10. (A) In addition to providing palliative care 514  
to hospice patients, a hospice care program may provide 515  
palliative care in an inpatient facility or unit operated by the 516  
program to patients who are not hospice patients, but only if 517  
the care is provided to each patient on a short-term basis and 518  
the care is medically necessary for the patient receiving the 519  
care. 520

Notwithstanding any provision of this chapter describing a hospice care program as being authorized to provide care and services only to hospice patients, the provision of palliative care under this division is considered a component of the activities authorized by the hospice care program's license.

(B) The director of health shall adopt rules governing the provision of palliative care under division (A) of this section to patients who are not hospice patients. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(C) Nothing in this chapter precludes an entity that holds a license for a hospice care program, including a program that exercises the authority described in division (A) of this section, from owning, being owned by, or otherwise being affiliated with an entity that provides palliative care to patients who are not hospice patients.

**Sec. 3712.11.** Nothing in this chapter shall be interpreted as meaning that palliative care may be provided only by or as a component of a hospice care program or pediatric respite care program.

**Sec. 4731.054.** (A) As used in this section:

(1) "Chronic pain" has the same meaning as in section 4731.052 of the Revised Code.

(2) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(3) "Hospice care program" means a program licensed under Chapter 3712. of the Revised Code.

(4) "Hospital" means a hospital registered with the department of health under section 3701.07 of the Revised Code.

~~(4)~~ (5) "Owner" means each person included on the list 549  
maintained under division (B) (6) of section 4729.552 of the 550  
Revised Code. 551

~~(5)~~ (6) (a) "Pain management clinic" means a facility to 552  
which both of the following apply: 553

(i) The majority of patients of the prescribers at the 554  
facility are provided treatment for chronic pain through the use 555  
of controlled substances, tramadol, or other drugs specified in 556  
rules adopted under this section; 557

(ii) The facility meets any other identifying criteria 558  
established in rules adopted under this section. 559

(b) "Pain management clinic" does not include any of the 560  
following: 561

(i) A hospital; 562

(ii) A facility operated by a hospital for the treatment 563  
of chronic pain; 564

(iii) A physician practice owned or controlled, in whole 565  
or in part, by a hospital or by an entity that owns or controls, 566  
in whole or in part, one or more hospitals; 567

(iv) A school, college, university, or other educational 568  
institution or program to the extent that it provides 569  
instruction to individuals preparing to practice as physicians, 570  
podiatrists, dentists, nurses, physician assistants, 571  
optometrists, or veterinarians or any affiliated facility to the 572  
extent that it participates in the provision of that 573  
instruction; 574

(v) A hospice care program ~~licensed under Chapter 3712. of~~ 575  
~~the Revised Code with respect to its hospice patients;~~ 576

(vi) A hospice care program with respect to its provision 577  
of palliative care in an inpatient facility or unit to patients 578  
who are not hospice patients, as authorized by section 3712.10 579  
of the Revised Code, but only in the case of those palliative 580  
care patients who have a life-threatening illness; 581

(vii) A palliative care inpatient facility or unit that 582  
does not admit hospice patients and is not otherwise excluded as 583  
a pain management clinic under division (A) (6) (b) of this 584  
section, but only in the case of those palliative care patients 585  
who have a life-threatening illness; 586

~~(vi)~~(viii) An ambulatory surgical facility licensed under 587  
section 3702.30 of the Revised Code; 588

~~(vii)~~(ix) An interdisciplinary pain rehabilitation 589  
program with three-year accreditation from the commission on 590  
accreditation of rehabilitation facilities; 591

~~(viii)~~(x) A nursing home licensed under section 3721.02 592  
of the Revised Code or by a political subdivision certified 593  
under section 3721.09 of the Revised Code; 594

~~(ix)~~(xi) A facility conducting only clinical research 595  
that may use controlled substances in studies approved by a 596  
hospital-based institutional review board or an institutional 597  
review board accredited by the association for the accreditation 598  
of human research protection programs. 599

~~(6)~~(7) "Physician" means an individual authorized under 600  
this chapter to practice medicine and surgery or osteopathic 601  
medicine and surgery. 602

~~(7)~~(8) "Prescriber" has the same meaning as in section 603  
4729.01 of the Revised Code. 604

(B) Each owner shall supervise, control, and direct the 605  
activities of each individual, including an employee, volunteer, 606  
or individual under contract, who provides treatment of chronic 607  
pain at the pain management clinic or is associated with the 608  
provision of that treatment. The supervision, control, and 609  
direction shall be provided in accordance with rules adopted 610  
under this section. 611

(C) The state medical board shall adopt rules in 612  
accordance with Chapter 119. of the Revised Code that establish 613  
all of the following: 614

(1) Standards and procedures for the operation of a pain 615  
management clinic; 616

(2) Standards and procedures to be followed by a physician 617  
who provides care at a pain management clinic; 618

(3) For purposes of division (A) (5) (a) (i) of this section, 619  
the other drugs used to treat chronic pain that identify a 620  
facility as a pain management clinic; 621

(4) For purposes of division (A) (5) (a) (ii) of this 622  
section, the other criteria that identify a facility as a pain 623  
management clinic; 624

(5) For purposes of division (B) of this section, 625  
standards and procedures to be followed by an owner in providing 626  
supervision, direction, and control of individuals at a pain 627  
management clinic. 628

(D) The board may impose a fine of not more than twenty 629  
thousand dollars on a physician who fails to comply with rules 630  
adopted under this section. The fine may be in addition to or in 631  
lieu of any other action that may be taken under section 4731.22 632  
of the Revised Code. The board shall deposit any amounts 633

received under this division in accordance with section 4731.24 634  
of the Revised Code. 635

(E) (1) The board may inspect either of the following as 636  
the board determines necessary to ensure compliance with this 637  
chapter and any rules adopted under it regarding pain management 638  
clinics: 639

(a) A pain management clinic; 640

(b) A facility or physician practice that the board 641  
suspects is operating as a pain management clinic in violation 642  
of this chapter. 643

(2) The board's inspection shall be conducted in 644  
accordance with division (F) of section 4731.22 of the Revised 645  
Code. 646

(3) Before conducting an on-site inspection, the board 647  
shall provide notice to the owner or other person in charge of 648  
the facility or physician practice, except that the board is not 649  
required to provide the notice if, in the judgment of the board, 650  
the notice would jeopardize an investigation being conducted by 651  
the board. 652

**Section 2.** That existing sections 3702.51, 3702.594, 653  
3712.01, and 4731.054 of the Revised Code are hereby repealed. 654

**Section 3.** As used in this section, "palliative care" has 655  
the same meaning as in section 3712.01 of the Revised Code, as 656  
amended by this act. 657

Nothing in this act shall be construed as requiring the 658  
Medicaid program to cover palliative care or any other health 659  
care service that constitutes palliative care, regardless of how 660  
the service is designated by a Medicaid provider or the Medicaid 661



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| program, in an amount, duration, or scope that exceeds the     | 662 |
| coverage that is included in the Medicaid program as it exists | 663 |
| on the effective date of this act.                             | 664 |