

As Introduced

131st General Assembly

Regular Session

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S. B. No. 283

Senator Cafaro

Cosponsors: Senators Yuko, Schiavoni, Tavares

A BILL

To amend sections 3721.02, 3721.13, and 3721.16 and 1
to enact sections 3721.033, 3721.37, 3721.38, 2
3721.39, and 3721.40 of the Revised Code to 3
authorize alternative sanctions for residential 4
care facilities, to authorize memory care units 5
in residential care facilities, to provide funds 6
to regional long-term care ombudsman programs to 7
hire additional staff, and to make an 8
appropriation. 9

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

Section 1. That sections 3721.02, 3721.13, and 3721.16 be 10
amended and sections 3721.033, 3721.37, 3721.38, 3721.39, and 11
3721.40 of the Revised Code be enacted to read as follows: 12

Sec. 3721.02. (A) As used in this section, "residential 13
facility" means a residential facility licensed under section 14
5119.34 of the Revised Code that provides accommodations, 15
supervision, and personal care services for three to sixteen 16
unrelated adults. 17

(B) (1) The director of health shall license homes and 18

establish procedures to be followed in inspecting and licensing 19
homes. The director may inspect a home at any time. Each home 20
shall be inspected by the director at least once prior to the 21
issuance of a license and at least once every ~~fifteen~~six months 22
thereafter. The state fire marshal or a township, municipal, or 23
other legally constituted fire department approved by the 24
marshal shall also inspect a home prior to issuance of a 25
license, at least once every fifteen months thereafter, and at 26
any other time requested by the director. A home does not have 27
to be inspected prior to issuance of a license by the director, 28
state fire marshal, or a fire department if ownership of the 29
home is assigned or transferred to a different person and the 30
home was licensed under this chapter immediately prior to the 31
assignment or transfer. The director may enter at any time, for 32
the purposes of investigation, any institution, residence, 33
facility, or other structure that has been reported to the 34
director or that the director has reasonable cause to believe is 35
operating as a nursing home, residential care facility, or home 36
for the aging without a valid license required by section 37
3721.05 of the Revised Code or, in the case of a county home or 38
district home, is operating despite the revocation of its 39
residential care facility license. The director may delegate the 40
director's authority and duties under this chapter to any 41
division, bureau, agency, or official of the department of 42
health. 43

(2) (a) If, prior to issuance of a license, a home submits 44
a request for an expedited licensing inspection and the request 45
is submitted in a manner and form approved by the director, the 46
director shall commence an inspection of the home not later than 47
ten business days after receiving the request. 48

(b) On request, submitted in a manner and form approved by 49

the director, the director may review plans for a building that 50
is to be used as a home for compliance with applicable state and 51
local building and safety codes. 52

(c) The director may charge a fee for an expedited 53
licensing inspection or a plan review that is adequate to cover 54
the expense of expediting the inspection or reviewing the plans. 55
The fee shall be deposited in the state treasury to the credit 56
of the general operations fund created in section 3701.83 of the 57
Revised Code and used solely for expediting inspections and 58
reviewing plans. 59

(C) A single facility may be licensed both as a nursing 60
home pursuant to this chapter and as a residential facility 61
pursuant to section 5119.34 of the Revised Code if the director 62
determines that the part or unit to be licensed as a nursing 63
home can be maintained separate and discrete from the part or 64
unit to be licensed as a residential facility. 65

(D) In determining the number of residents in a home for 66
the purpose of licensing, the director shall consider all the 67
individuals for whom the home provides accommodations as one 68
group unless one of the following is the case: 69

(1) The home is a home for the aging, in which case all 70
the individuals in the part or unit licensed as a nursing home 71
shall be considered as one group, and all the individuals in the 72
part or unit licensed as a rest home shall be considered as 73
another group. 74

(2) The home is both a nursing home and a residential 75
facility. In that case, all the individuals in the part or unit 76
licensed as a nursing home shall be considered as one group, and 77
all the individuals in the part or unit licensed as an adult 78

care facility shall be considered as another group. 79

(3) The home maintains, in addition to a nursing home or 80
residential care facility, a separate and discrete part or unit 81
that provides accommodations to individuals who do not require 82
or receive skilled nursing care and do not receive personal care 83
services from the home, in which case the individuals in the 84
separate and discrete part or unit shall not be considered in 85
determining the number of residents in the home if the separate 86
and discrete part or unit is in compliance with the Ohio basic 87
building code established by the board of building standards 88
under Chapters 3781. and 3791. of the Revised Code and the home 89
permits the director, on request, to inspect the separate and 90
discrete part or unit and speak with the individuals residing 91
there, if they consent, to determine whether the separate and 92
discrete part or unit meets the requirements of this division. 93

(E) (1) The director of health shall charge the following 94
application fee and annual renewal licensing and inspection fee 95
for each fifty persons or part thereof of a home's licensed 96
capacity: 97

(a) For state fiscal year 2010, two hundred twenty 98
dollars; 99

(b) For state fiscal year 2011, two hundred seventy 100
dollars; 101

(c) For each state fiscal year thereafter, three hundred 102
twenty dollars. 103

(2) All fees collected by the director for the issuance or 104
renewal of licenses shall be deposited into the state treasury 105
to the credit of the general operations fund created in section 106
3701.83 of the Revised Code for use only in administering and 107

enforcing this chapter and rules adopted under it. 108

(F) (1) Except as otherwise provided in this section, the 109
results of an inspection or investigation of a home that is 110
conducted under this section, including any statement of 111
deficiencies and all findings and deficiencies cited in the 112
statement on the basis of the inspection or investigation, shall 113
be used solely to determine the home's compliance with this 114
chapter or another chapter of the Revised Code in any action or 115
proceeding other than an action commenced under division (I) of 116
section 3721.17 of the Revised Code. Those results of an 117
inspection or investigation, that statement of deficiencies, and 118
the findings and deficiencies cited in that statement shall not 119
be used in either of the following: 120

(a) Any court or in any action or proceeding that is 121
pending in any court and are not admissible in evidence in any 122
action or proceeding unless that action or proceeding is an 123
appeal of an action by the department of health under this 124
chapter or is an action by any department or agency of the state 125
to enforce this chapter or another chapter of the Revised Code; 126

(b) An advertisement, unless the advertisement includes 127
all of the following: 128

(i) The date the inspection or investigation was 129
conducted; 130

(ii) A statement that the director of health inspects all 131
homes at least once every fifteen months; 132

(iii) If a finding or deficiency cited in the statement of 133
deficiencies has been substantially corrected, a statement that 134
the finding or deficiency has been substantially corrected and 135
the date that the finding or deficiency was substantially 136

corrected;	137
(iv) The number of findings and deficiencies cited in the statement of deficiencies on the basis of the inspection or investigation;	138 139 140
(v) The average number of findings and deficiencies cited in a statement of deficiencies on the basis of an inspection or investigation conducted under this section during the same calendar year as the inspection or investigation used in the advertisement;	141 142 143 144 145
(vi) A statement that the advertisement is neither authorized nor endorsed by the department of health or any other government agency.	146 147 148
(2) Nothing in division (F) (1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.	149 150 151 152
<u>Sec. 3721.033. (A) Other than for violations of sections 3721.37 to 3721.40 of the Revised Code, if the director of health finds that a residential care facility violated a provision of this chapter or a rule adopted under it, the director shall take disciplinary action in accordance with the following:</u>	153 154 155 156 157 158
<u>(1) If the violation has not resulted in actual harm and has the potential to cause only minimal harm, the director shall issue an order requiring the facility to correct the violation.</u>	159 160 161
<u>(2) If the violation has not resulted in actual harm and has the potential to cause more than minimal harm that does not immediately jeopardize the health, safety, or welfare of the residents, the director shall do whichever of the following is</u>	162 163 164 165

<u>applicable:</u>	166
<u>(a) For a first or second offense, the director shall</u>	167
<u>require the facility to submit to the department for its</u>	168
<u>approval a plan of correction that details the actions the</u>	169
<u>facility will take to ensure the health, safety, or welfare of</u>	170
<u>the residents. In addition, the director shall do either of the</u>	171
<u>following:</u>	172
<u>(i) Appoint employees of the department to conduct on-site</u>	173
<u>monitoring of the facility;</u>	174
<u>(ii) Require the facility to require its staff to attend a</u>	175
<u>training program approved by the director under division (C) of</u>	176
<u>this section.</u>	177
<u>(b) For each subsequent offense, the director shall do</u>	178
<u>both of the following:</u>	179
<u>(i) Prohibit the facility from accepting new residents</u>	180
<u>until the violation has been corrected;</u>	181
<u>(ii) For each separate violation, impose a civil penalty</u>	182
<u>of not less than fifty dollars per resident nor more than three</u>	183
<u>thousand dollars per resident for each day that the violation</u>	184
<u>continues.</u>	185
<u>(3) If the violation has resulted in actual harm that does</u>	186
<u>not immediately jeopardize the health, safety, or welfare of one</u>	187
<u>or more residents, the director shall do both of the following:</u>	188
<u>(a) Prohibit the facility from accepting new residents</u>	189
<u>until the violation has been corrected;</u>	190
<u>(b) For each separate violation, impose a civil penalty of</u>	191
<u>not less than fifty dollars per resident nor more than three</u>	192
<u>thousand dollars per resident for each day that the violation</u>	193

continues. 194

(4) If the violation has jeopardized or is likely to 195
jeopardize the health, safety, or welfare of one or more 196
residents, the director shall do either of the following: 197

(a) Appoint a temporary resident safety assurance manager 198
in the facility to take actions the department determines are 199
appropriate to ensure the health, safety, or welfare of the 200
residents; 201

(b) Issue an order suspending the facility's license 202
effective on a date specified in the order. 203

(B) Disciplinary actions taken by the director under 204
division (A) of this section shall be taken pursuant to an 205
adjudication conducted under Chapter 119. of the Revised Code. 206

(C) For purposes of division (A) (2) (a) (ii) of this 207
section, the director shall approve a training program if the 208
director determines the program sufficiently trains the staff of 209
a residential care facility to comply with this chapter and 210
rules adopted under it. The department of health may develop 211
such a training program. 212

(D) On issuance of an order suspending its license, a 213
residential care facility shall take all actions necessary to 214
cease operation of the facility for the duration of the 215
suspension unless the director, at the facility's request, 216
grants an exemption from this requirement. 217

(E) The disciplinary actions authorized by this section 218
are in addition to those that may be taken under section 3721.03 219
of the Revised Code. 220

(F) All amounts collected from the imposition of civil 221

penalties under this section shall be deposited into the state 222
treasury to the credit of the general operations fund created 223
under section 3701.83 of the Revised Code. 224

Sec. 3721.13. (A) The rights of residents of a home shall 225
include, but are not limited to, the following: 226

(1) The right to a safe and clean living environment 227
pursuant to the medicare and medicaid programs and applicable 228
state laws and rules adopted by the director of health; 229

(2) The right to be free from physical, verbal, mental, 230
and emotional abuse and to be treated at all times with 231
courtesy, respect, and full recognition of dignity and 232
individuality; 233

(3) Upon admission and thereafter, the right to adequate 234
and appropriate medical treatment and nursing care and to other 235
ancillary services that comprise necessary and appropriate care 236
consistent with the program for which the resident contracted. 237
This care shall be provided without regard to considerations 238
such as race, color, religion, national origin, age, or source 239
of payment for care. 240

(4) The right to have all reasonable requests and 241
inquiries responded to promptly; 242

(5) The right to have clothes and bed sheets changed as 243
the need arises, to ensure the resident's comfort or sanitation; 244

(6) The right to obtain from the home, upon request, the 245
name and any specialty of any physician or other person 246
responsible for the resident's care or for the coordination of 247
care; 248

(7) The right, upon request, to be assigned, within the 249

capacity of the home to make the assignment, to the staff 250
physician of the resident's choice, and the right, in accordance 251
with the rules and written policies and procedures of the home, 252
to select as the attending physician a physician who is not on 253
the staff of the home. If the cost of a physician's services is 254
to be met under a federally supported program, the physician 255
shall meet the federal laws and regulations governing such 256
services. 257

(8) The right to participate in decisions that affect the 258
resident's life, including the right to communicate with the 259
physician and employees of the home in planning the resident's 260
treatment or care and to obtain from the attending physician 261
complete and current information concerning medical condition, 262
prognosis, and treatment plan, in terms the resident can 263
reasonably be expected to understand; the right of access to all 264
information in the resident's medical record; and the right to 265
give or withhold informed consent for treatment after the 266
consequences of that choice have been carefully explained. When 267
the attending physician finds that it is not medically advisable 268
to give the information to the resident, the information shall 269
be made available to the resident's sponsor on the resident's 270
behalf, if the sponsor has a legal interest or is authorized by 271
the resident to receive the information. The home is not liable 272
for a violation of this division if the violation is found to be 273
the result of an act or omission on the part of a physician 274
selected by the resident who is not otherwise affiliated with 275
the home. 276

(9) The right to withhold payment for physician visitation 277
if the physician did not visit the resident; 278

(10) The right to confidential treatment of personal and 279

medical records, and the right to approve or refuse the release 280
of these records to any individual outside the home, except in 281
case of transfer to another home, hospital, or health care 282
system, as required by law or rule, or as required by a third- 283
party payment contract; 284

(11) The right to privacy during medical examination or 285
treatment and in the care of personal or bodily needs; 286

(12) The right to refuse, without jeopardizing access to 287
appropriate medical care, to serve as a medical research 288
subject; 289

(13) The right to be free from physical or chemical 290
restraints or prolonged isolation except to the minimum extent 291
necessary to protect the resident from injury to self, others, 292
or to property and except as authorized in writing by the 293
attending physician for a specified and limited period of time 294
and documented in the resident's medical record. Prior to 295
authorizing the use of a physical or chemical restraint on any 296
resident, the attending physician shall make a personal 297
examination of the resident and an individualized determination 298
of the need to use the restraint on that resident. 299

Physical or chemical restraints or isolation may be used 300
in an emergency situation without authorization of the attending 301
physician only to protect the resident from injury to self or 302
others. Use of the physical or chemical restraints or isolation 303
shall not be continued for more than twelve hours after the 304
onset of the emergency without personal examination and 305
authorization by the attending physician. The attending 306
physician or a staff physician may authorize continued use of 307
physical or chemical restraints for a period not to exceed 308
thirty days, and at the end of this period and any subsequent 309

period may extend the authorization for an additional period of 310
not more than thirty days. The use of physical or chemical 311
restraints shall not be continued without a personal examination 312
of the resident and the written authorization of the attending 313
physician stating the reasons for continuing the restraint. 314

If physical or chemical restraints are used under this 315
division, the home shall ensure that the restrained resident 316
receives a proper diet. In no event shall physical or chemical 317
restraints or isolation be used for punishment, incentive, or 318
convenience. 319

(14) The right to the pharmacist of the resident's choice 320
and the right to receive pharmaceutical supplies and services at 321
reasonable prices not exceeding applicable and normally accepted 322
prices for comparably packaged pharmaceutical supplies and 323
services within the community; 324

(15) The right to exercise all civil rights, unless the 325
resident has been adjudicated incompetent pursuant to Chapter 326
2111. of the Revised Code and has not been restored to legal 327
capacity, as well as the right to the cooperation of the home's 328
administrator in making arrangements for the exercise of the 329
right to vote; 330

(16) The right of access to opportunities that enable the 331
resident, at the resident's own expense or at the expense of a 332
third-party payer, to achieve the resident's fullest potential, 333
including educational, vocational, social, recreational, and 334
habilitation programs; 335

(17) The right to consume a reasonable amount of alcoholic 336
beverages at the resident's own expense, unless not medically 337
advisable as documented in the resident's medical record by the 338

attending physician or unless contradictory to written admission 339
policies; 340

(18) The right to use tobacco at the resident's own 341
expense under the home's safety rules and under applicable laws 342
and rules of the state, unless not medically advisable as 343
documented in the resident's medical record by the attending 344
physician or unless contradictory to written admission policies; 345

(19) The right to retire and rise in accordance with the 346
resident's reasonable requests, if the resident does not disturb 347
others or the posted meal schedules and upon the home's request 348
remains in a supervised area, unless not medically advisable as 349
documented by the attending physician; 350

(20) The right to observe religious obligations and 351
participate in religious activities; the right to maintain 352
individual and cultural identity; and the right to meet with and 353
participate in activities of social and community groups at the 354
resident's or the group's initiative; 355

(21) The right upon reasonable request to private and 356
unrestricted communications with the resident's family, social 357
worker, and any other person, unless not medically advisable as 358
documented in the resident's medical record by the attending 359
physician, except that communications with public officials or 360
with the resident's attorney or physician shall not be 361
restricted. Private and unrestricted communications shall 362
include, but are not limited to, the right to: 363

(a) Receive, send, and mail sealed, unopened 364
correspondence; 365

(b) Reasonable access to a telephone for private 366
communications; 367

(c) Private visits at any reasonable hour.	368
(22) The right to assured privacy for visits by the spouse, or if both are residents of the same home, the right to share a room within the capacity of the home, unless not medically advisable as documented in the resident's medical record by the attending physician;	369 370 371 372 373
(23) The right upon reasonable request to have room doors closed and to have them not opened without knocking, except in the case of an emergency or unless not medically advisable as documented in the resident's medical record by the attending physician;	374 375 376 377 378
(24) The right to retain and use personal clothing and a reasonable amount of possessions, in a reasonably secure manner, unless to do so would infringe on the rights of other residents or would not be medically advisable as documented in the resident's medical record by the attending physician;	379 380 381 382 383
(25) The right to be fully informed, prior to or at the time of admission and during the resident's stay, in writing, of the basic rate charged by the home, of services available in the home, and of any additional charges related to such services, including charges for services not covered under the medicare or medicaid program. The basic rate shall not be changed unless thirty days' notice is given to the resident or, if the resident is unable to understand this information, to the resident's sponsor.	384 385 386 387 388 389 390 391 392
(26) The right of the resident and person paying for the care to examine and receive a bill at least monthly for the resident's care from the home that itemizes charges not included in the basic rates;	393 394 395 396

(27) (a) The right to be free from financial exploitation;	397
(b) The right to manage the resident's own personal	398
financial affairs, or, if the resident has delegated this	399
responsibility in writing to the home, to receive upon written	400
request at least a quarterly accounting statement of financial	401
transactions made on the resident's behalf. The statement shall	402
include:	403
(i) A complete record of all funds, personal property, or	404
possessions of a resident from any source whatsoever, that have	405
been deposited for safekeeping with the home for use by the	406
resident or the resident's sponsor;	407
(ii) A listing of all deposits and withdrawals transacted,	408
which shall be substantiated by receipts which shall be	409
available for inspection and copying by the resident or sponsor.	410
(28) The right of the resident to be allowed unrestricted	411
access to the resident's property on deposit at reasonable	412
hours, unless requests for access to property on deposit are so	413
persistent, continuous, and unreasonable that they constitute a	414
nuisance;	415
(29) The right to receive reasonable notice before the	416
resident's room or roommate is changed, including an explanation	417
of the reason for either change.	418
(30) The right not to be transferred or discharged from	419
the home unless the transfer is necessary because of one of the	420
following:	421
(a) The welfare and needs of the resident cannot be met in	422
the home.	423
(b) The resident's health has improved sufficiently so	424

that the resident no longer needs the services provided by the 425
home. 426

(c) The safety of individuals in the home is endangered. 427

(d) The health of individuals in the home would otherwise 428
be endangered. 429

(e) The resident has failed, after reasonable and 430
appropriate notice, to pay or to have the medicare or medicaid 431
program pay on the resident's behalf, for the care provided by 432
the home. A resident shall not be considered to have failed to 433
have the resident's care paid for if the resident has applied 434
for medicaid, unless both of the following are the case: 435

(i) The resident's application, or a substantially similar 436
previous application, has been denied. 437

(ii) If the resident appealed the denial, the denial was 438
upheld. 439

(f) The home's license has been revoked, the home is a 440
residential care facility and its license has been suspended, 441
the home is being closed pursuant to section 3721.08, sections 442
5165.60 to 5165.89, or section 5155.31 of the Revised Code, or 443
the home otherwise ceases to operate. 444

(g) The resident is a recipient of medicaid, and the 445
home's participation in the medicaid program is involuntarily 446
terminated or denied. 447

(h) The resident is a beneficiary under the medicare 448
program, and the home's participation in the medicare program is 449
involuntarily terminated or denied. 450

(31) The right to voice grievances and recommend changes 451
in policies and services to the home's staff, to employees of 452

the department of health, or to other persons not associated 453
with the operation of the home, of the resident's choice, free 454
from restraint, interference, coercion, discrimination, or 455
reprisal. This right includes access to a residents' rights 456
advocate, and the right to be a member of, to be active in, and 457
to associate with persons who are active in organizations of 458
relatives and friends of nursing home residents and other 459
organizations engaged in assisting residents. 460

(32) The right to have any significant change in the 461
resident's health status reported to the resident's sponsor. As 462
soon as such a change is known to the home's staff, the home 463
shall make a reasonable effort to notify the sponsor within 464
twelve hours. 465

(B) A sponsor may act on a resident's behalf to assure 466
that the home does not deny the residents' rights under sections 467
3721.10 to 3721.17 of the Revised Code. 468

(C) Any attempted waiver of the rights listed in division 469
(A) of this section is void. 470

Sec. 3721.16. For each resident of a home, notice of a 471
proposed transfer or discharge shall be in accordance with this 472
section. 473

(A) (1) The administrator of a home shall notify a resident 474
in writing, and the resident's sponsor in writing by certified 475
mail, return receipt requested, in advance of any proposed 476
transfer or discharge from the home. The administrator shall 477
send a copy of the notice to the state department of health. The 478
notice shall be provided at least thirty days in advance of the 479
proposed transfer or discharge, unless any of the following 480
applies: 481

(a) The resident's health has improved sufficiently to	482
allow a more immediate discharge or transfer to a less skilled	483
level of care;	484
(b) The resident has resided in the home less than thirty	485
days;	486
(c) An emergency arises in which the safety of individuals	487
in the home is endangered;	488
(d) An emergency arises in which the health of individuals	489
in the home would otherwise be endangered;	490
(e) An emergency arises in which the resident's urgent	491
medical needs necessitate a more immediate transfer or	492
discharge.	493
In any of the circumstances described in divisions (A) (1)	494
(a) to (e) of this section, the notice shall be provided as many	495
days in advance of the proposed transfer or discharge as is	496
practicable.	497
(2) The notice required under division (A) (1) of this	498
section shall include all of the following:	499
(a) The reasons for the proposed transfer or discharge;	500
(b) The proposed date the resident is to be transferred or	501
discharged;	502
(c) Subject to division (A) (3) of this section, a proposed	503
location to which the resident may relocate and a notice that	504
the resident and resident's sponsor may choose another location	505
to which the resident will relocate;	506
(d) Notice of the right of the resident and the resident's	507
sponsor to an impartial hearing at the home on the proposed	508

transfer or discharge, and of the manner in which and the time 509
within which the resident or sponsor may request a hearing 510
pursuant to section 3721.161 of the Revised Code; 511

(e) A statement that the resident will not be transferred 512
or discharged before the date specified in the notice unless the 513
home and the resident or, if the resident is not competent to 514
make a decision, the home and the resident's sponsor, agree to 515
an earlier date; 516

(f) The address of the legal services office of the 517
department of health; 518

(g) The name, address, and telephone number of a 519
representative of the state long-term care ombudsman program 520
and, if the resident or patient has a developmental disability 521
or mental illness, the name, address, and telephone number of 522
the Ohio protection and advocacy system. 523

(3) The proposed location to which a resident may relocate 524
as specified pursuant to division (A) (2) (c) of this section in 525
the proposed transfer or discharge notice shall be capable of 526
meeting the resident's health-care and safety needs. The 527
proposed location for relocation need not have accepted the 528
resident at the time the notice is issued to the resident and 529
resident's sponsor. 530

(B) No home shall transfer or discharge a resident before 531
the date specified in the notice required by division (A) of 532
this section unless the home and the resident or, if the 533
resident is not competent to make a decision, the home and the 534
resident's sponsor, agree to an earlier date. 535

(C) Transfer or discharge actions shall be documented in 536
the resident's medical record by the home if there is a medical 537

basis for the action.	538
(D) A resident or resident's sponsor may challenge a transfer or discharge by requesting an impartial hearing pursuant to section 3721.161 of the Revised Code, unless the transfer or discharge is required because of one of the following reasons:	539 540 541 542 543
(1) <u>The home's license has been revoked under this chapter or the home is a residential care facility and its license has been suspended under this chapter;</u>	544 545 546
(2) The home is being closed pursuant to section 3721.08, sections 5165.60 to 5165.89, or section 5155.31 of the Revised Code;	547 548 549
(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily terminated or denied by the federal government;	550 551 552
(4) The resident is a beneficiary under the medicare program and the home's certification under the medicare program has been involuntarily terminated or denied by the federal government.	553 554 555 556
(E) If a resident is transferred or discharged pursuant to this section, the home from which the resident is being transferred or discharged shall provide the resident with adequate preparation prior to the transfer or discharge to ensure a safe and orderly transfer or discharge from the home, and the home or alternative setting to which the resident is to be transferred or discharged shall have accepted the resident for transfer or discharge.	557 558 559 560 561 562 563 564
(F) At the time of a transfer or discharge of a resident who is a recipient of medicaid from a home to a hospital or for	565 566

therapeutic leave, the home shall provide notice in writing to 567
the resident and in writing by certified mail, return receipt 568
requested, to the resident's sponsor, specifying the number of 569
days, if any, during which the resident will be permitted under 570
the medicaid program to return and resume residence in the home 571
and specifying the medicaid program's coverage of the days 572
during which the resident is absent from the home. An individual 573
who is absent from a home for more than the number of days 574
specified in the notice and continues to require the services 575
provided by the facility shall be given priority for the first 576
available bed in a semi-private room. 577

Sec. 3721.37. (A) As used in sections 3721.37 to 3721.40 578
of the Revised Code, "memory care unit" means a residential care 579
facility, or portion of a residential care facility, that 580
provides or proposes to provide specialized care and services 581
for residents with Alzheimer's disease or other dementia. 582

(B) Beginning one year after the effective date of this 583
section, no person shall operate a memory care unit that is not 584
approved by the director of health. 585

(C) Not later than nine months after the effective date of 586
this section, the director of health shall adopt rules as the 587
director considers appropriate to implement sections 3721.37 to 588
3721.40 of the Revised Code. The rules shall be adopted in 589
accordance with Chapter 119. of the Revised Code and address the 590
following: 591

(1) Application forms and procedures for applying for 592
approval of a memory care unit; 593

(2) Standards and procedures for inspection of memory care 594
units as part of the application process and while in operation; 595

(3) Disciplinary action for violations of sections 3721.37 to 3721.40 of the Revised Code, including monetary penalties not greater than five thousand dollars per resident in a memory care unit for each day that a violation continues; 596
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(4) Any other matter the director considers appropriate. 600

Sec. 3721.38. (A) A person that seeks to operate a memory care unit shall apply to the director of health for approval. The application must be submitted in the form and manner prescribed by the director in the rules adopted under section 3721.37 of the Revised Code and demonstrate that the unit is in compliance with sections 3721.37 to 3721.40 of the Revised Code and the rules adopted under section 3721.37 of the Revised Code. 601
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(B)(1) The director shall consider applications for approval of memory care units. As part of that consideration, the director shall inspect each memory care unit at least once prior to approval. 608
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If the director determines that a memory care unit is in compliance with sections 3721.37 to 3721.40 of the Revised Code and the rules adopted under section 3721.37 of the Revised Code, the director shall approve the memory care unit. 612
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(2)(a) If the director determines that a memory care unit is not in compliance with sections 3721.37 to 3721.40 of the Revised Code and the rules, the director shall notify the person making application and specify the requirements that the unit does not meet. If after a period of time specified by the director, the unit still does not meet the requirements, the director shall do one of the following: 616
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(i) If the person making application alleges that the memory care unit was in operation on the effective date of this 623
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section, allow an additional three months to correct 625
deficiencies and demonstrate to the director that the unit is in 626
compliance with sections 3721.37 to 3721.40 of the Revised Code 627
and the rules; 628

(ii) If the person making application does not allege that 629
the memory care unit was in operation on the effective date of 630
this section, deny the application. 631

(b) If a person described in division (B)(2)(a)(i) of this 632
section fails to demonstrate compliance with sections 3721.37 to 633
3721.40 of the Revised Code and the rules not later than three 634
months after receiving the director's notice, the director shall 635
deny the application and order the person to cease operating the 636
memory care unit. 637

(3) A person whose application is denied may appeal in 638
accordance with Chapter 119. of the Revised Code. 639

Sec. 3721.39. (A) All of the following apply to a memory 640
care unit regarding its physical space: 641

(1) It must provide space for dining, group and individual 642
activities, and visits; 643

(2) Not more than two residents may occupy a bedroom in 644
the unit regardless of the room's size; 645

(3) Doors equipped with electronic card operated systems 646
or other locking systems that prevent immediate egress are 647
permitted only if the memory care unit does both of the 648
following: 649

(a) Obtains written approval from the director of health 650
or the appropriate local building authority permitting the use 651
of the locking system; 652

(b) Obtains a statement from the manufacturer that is 653
specific to the residential care facility verifying that the 654
locking system will shut down and all doors will open 655
immediately and easily when one or more of the following occurs: 656

(i) A signal is received from an activated fire alarm 657
system or heat or smoke detector; 658

(ii) A power failure; 659

(iii) Steps are taken to override the locking system by 660
use of a key pad or other lock-releasing device. 661

(B) (1) A memory care unit shall offer the following types 662
of activities at least weekly: 663

(a) Gross motor activities such as stretching, exercising, 664
and dancing; 665

(b) Self-care activities such as personal hygiene; 666

(c) Social activities such as games, music, and holiday 667
and seasonal celebrations; 668

(d) Crafts; 669

(e) Sensory and memory enhancement activities such as 670
review of current events, movies, pictures, storytelling, 671
cooking, pet therapy, and reminiscing; 672

(f) Outdoor activities as weather permits. 673

(2) A memory care unit must provide each resident with at 674
least two hours each day of assistance with activities such as 675
the following, as appropriate and as needed by the resident: 676
eating, drinking, transferring in and out of a bed or chair, 677
proper turning and positioning in a bed or chair, ambulating, 678
toileting, bladder and bowel management, personal hygiene, 679

dressing, securing health care, managing health care, self- 680
administering medication, doing laundry, shopping, securing and 681
using transportation, managing finances, making and keeping 682
appointments, caring for personal possessions, communicating 683
with others, engaging in social and leisure activities, and 684
using prosthetic devices. 685

(3) A contract for services to a memory care unit resident 686
shall specify all of the services to be provided to the 687
resident. 688

(C) (1) Prior to admitting an individual as a resident, a 689
memory care unit shall do all of the following: 690

(a) Consider other care options that may be available to 691
the individual; 692

(b) Document that the individual, or a person legally 693
responsible for the individual, does not object to the 694
individual's admission or transfer to the memory care unit; 695

(c) Not earlier than seventy-two hours prior to admitting 696
an individual as a resident, do both of the following: 697

(i) Complete a written cognitive screening of the 698
individual in collaboration with a physician; 699

(ii) Complete a written support plan identifying the 700
individual's physical, medical, social, cognitive, and safety 701
needs and document the plan in the individual's record. 702

(2) (a) On admission of an individual as a resident, a 703
memory care unit shall implement the support plan completed 704
under division (C) (1) (c) (ii) of this section. 705

(b) A memory care unit shall revise each resident's 706
support plan at least quarterly and as the resident's condition 707

changes. 708

(c) A memory care unit shall quarterly assess each 709
resident to determine whether the resident has a continuing need 710
or desire for care from the memory care unit. 711

Sec. 3721.40. The director of health shall enforce 712
sections 3721.37 to 3721.40 of the Revised Code and the rules 713
adopted under section 3721.37 of the Revised Code. The director 714
shall inspect all approved memory care units at intervals 715
prescribed by the director in the rules. 716

The director may take disciplinary action as prescribed in 717
the rules adopted under section 3721.37 of the Revised Code and 718
may issue orders to secure compliance with sections 3721.37 to 719
3721.40 of the Revised Code and the rules, including orders 720
revoking the director's approval of a memory care unit. 721

Orders of the director may be appealed in accordance with 722
Chapter 119. of the Revised Code. 723

Section 2. That existing sections 3721.02, 3721.13, and 724
3721.16 of the Revised Code are hereby repealed. 725

Section 3. All items in this section are hereby 726
appropriated as designated out of any moneys in the state 727
treasury to the credit of the designated fund. For all 728
appropriations made in this act, those in the first column are 729
for fiscal year 2016 and those in the second column are for 730
fiscal year 2017. The appropriations made in this act are in 731
addition to any other appropriations made for the FY 2016-FY 732
2017 biennium. 733

AGE DEPARTMENT OF AGING 734

Dedicated Purpose Fund Group 735

4C40 490609	Regional Long-Term Care	\$0	\$2,000,000	736
	Ombudsman Program			737
TOTAL DPF Dedicated Purpose Fund Group		\$0	\$2,000,000	738
TOTAL ALL BUDGET FUND GROUPS		\$0	\$2,000,000	739

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM 740

Of the foregoing appropriation item 490609, Regional Long- 741
 Term Care Ombudsman Program, \$2,000,000 in fiscal year 2017 742
 shall be used by the regional long-term care ombudsman programs 743
 to hire additional staff. 744

Section 4. On the effective date of this act, or as soon 745
 as possible thereafter, the Director of Budget and Management 746
 shall transfer \$2,000,000 cash from the General Revenue Fund to 747
 the Office of the State Long-Term Care Ombudsman Program Fund 748
 (Fund 4C40), used by the Department of Aging. 749

Section 5. Notwithstanding section 3701.83 of the Revised 750
 Code, the Director of Budget and Management, during fiscal year 751
 2017, shall transfer any fine revenues deposited into the 752
 General Operations Fund (Fund 4700) in accordance with section 753
 3721.033 of the Revised Code to the General Revenue Fund. The 754
 transfers shall occur each quarter until the total amount of 755
 fine revenue transferred equals \$2,000,000 cash. The Department 756
 of Health shall use any fine revenues collected in excess of 757
 \$2,000,000 to hire additional inspectors. Any fine revenue 758
 collected in excess of \$2,000,000 is hereby appropriated. 759

Section 6. Within the limits set forth in this act, the 760
 Director of Budget and Management shall establish accounts 761
 indicating the source and amount of funds for each appropriation 762
 made in this act, and shall determine the form and manner in 763

which appropriation accounts shall be maintained. Expenditures 764
from appropriations contained in this act shall be accounted for 765
as though made in the main operating appropriations act of the 766
131st General Assembly. 767

The appropriations made in this act are subject to all 768
provisions of the main operating appropriations act of the 131st 769
General Assembly that are generally applicable to such 770
appropriations. 771