

Ohio Adopts Hospital Licensure System

Article By:

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Until now, hospital licensure was absent from Ohio's regulatory scheme. However, Ohio's final budget bill, which became effective on July 1, 2021, introduced a new hospital licensure system.^[1] Under the final bill, Ohio hospitals have three years to become licensed by the Ohio Department of Health (the Department). Within one year, the Department will adopt new rules establishing health, safety, welfare, and quality standards for hospitals and will begin accepting hospital licensure applications. Hospitals that fail to comply with Ohio's new licensure requirement, or any of the Department's new rules, may be subject to civil penalties up to \$250,000.

Who must comply?

The new licensure requirements apply to all hospitals operating in Ohio, including children's hospitals, that provide inpatient medical or surgical services for a continuous period longer than 24 hours. Certain health care facilities are exempt from the Ohio licensure requirement, including:

- Hospitals operated by the federal government;
- Ambulatory surgical facilities;
- Nursing homes;
- Hospitals licensed to receive mentally ill people under R.C. § 5119.33;
- Class I or II residential facilities under R.C. 5119.34;
- Homes or facilities housing individuals with developmental disabilities, as provided by R.C. 5123.19;
- Community addiction services providers under R.C. § 5119.01;
- Facilities providing contracts for services with the Department of Developmental Disabilities pursuant to R.C. § 5123.18.

How do Ohio hospitals become licensed?

The Department will start considering licensure applications one year after this section becomes effective. Along with their application for licensure, hospitals must submit an application fee and identify all hospital locations. The application requires hospitals be certified under Title XVIII of the Social Security Act, or accredited by a national accrediting organization that is approved by the Centers for Medicare and Medicaid Services (CMS).^[2] Hospitals must also specify the number of beds in the facility, including skilled nursing beds, long-term care beds, and special skilled nursing beds.

The Department may require the hospital be inspected prior to license issuance. However, in lieu of an inspection, the hospital may choose to submit its most recent on-site survey report from CMS or an approved accrediting organization. Regardless, once every 36 months, the Department will inspect the hospital's maternity unit, newborn care nursery, and any unit providing health care services.^[3] The Department may also inspect a licensed hospital in response to an incident that impacts public health, a complaint, or to otherwise ensure patient safety. All inspections conducted by the Department are subject to a fee paid by the hospital.

When will licensure requirements take effect?

Hospitals have three years to comply with the new licensure requirements. Issued licenses are then valid for periods of three years unless revoked or suspended.

Within one year of this section's effective date, the Department will adopt rules establishing health, safety, welfare, and quality standards for licensed hospitals. The rules will include standards for maternity units, newborn care nurseries, health care services, data reporting procedures, and emergency preparedness. Within one year, the Department will also establish license-renewal procedures.

Why comply?

If the Department determines a hospital is operating without a license, civil penalties up to \$250,000 may apply. The Department may impose an additional penalty between \$1,000 and \$10,000 for each day that the hospital operates without a license. Further, the Department may require non-compliant hospitals to cease operations. Once Ohio's hospital licensure system takes full effect, operating a hospital without a license will become a first-degree misdemeanor.

Violations of any of the Department's adopted rules may similarly result in civil penalties between \$1,000 and \$250,000. The Department may also require the hospital to submit a plan to correct or mitigate the violation. Depending on the nature of the violation, the Department may choose to suspend a health care service or revoke the hospital's license.

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^[1] The new law will be codified at R.C. § 3722.01 et seq.; See HB 110, 134 Gen. Assemb., Reg. Sess. (Ohio 2021).

^[2] See 42 USC 1395aa, bb(a). New hospitals must demonstrate eligibility under R.C. § 3722.06.

^[3] Under R.C. § 3722.01(B), “‘Health care service’ means any of the following:

- (1) Pediatric intensive care;
- (2) Solid organ and bone marrow transplantation;
- (3) Stem cell harvesting and reinfusion;
- (4) Cardiac catheterization;
- (5) Open heart surgery;
- (6) Operation of linear accelerators;
- (7) Operation of cobalt radiation therapy units;
- (8) Operation of gamma knives.”