



Feb 19, 2021

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Ohio Proposes a Hospital Licensure System

In the first draft of the State of Ohio budget, Governor Mike DeWine has proposed that hospitals become licensed by the Director of Health in order to operate within the state. The introduced version of the budget is [available here](#), and the hospital licensure information begins on page 1610. Add this proposal to the list of compliance items for hospitals and be sure to keep an eye out for developments related to this new law, assuming it remains in the proposed budget bill that ultimately gets passed.

Currently, there is no hospital licensure system in Ohio; however, hospitals must be registered and must report certain information to the Ohio Department of Health annually and must complete and submit the Annual Hospital Registration and Planning Report by March 1 each calendar year. Thus, this proposal represents a big shake-up to how hospitals will operate in Ohio.

This first draft of the budget starts the budget process. The Ohio House and then the Ohio Senate will be reviewing the budget and will make their own respective changes to it, so whether the hospital licensure plan will remain part of the budget bill depends on the legislative process and ultimate approval. Below is an outline of what hospitals can expect in this proposed licensure system.

The licensure system would be codified at Ohio Revised Code Sections 3722.01 et seq. The proposal defines a “hospital” as an institution or facility that provides inpatient medical or surgical services for a continuous period longer than 24 hours or a hospital operated by a health maintenance organization, and it includes children’s hospitals. The hospital licensure system exempts certain facilities from licensure, such as:

- An ambulatory surgical facility;
- A hospital or inpatient unit licensed to receive mentally ill patients; and
- A clinic providing ambulatory patient services where patients are not regularly admitted as inpatients.

Under the proposed licensure system, a hospital could face up to \$250,000 in civil penalties, and between \$1,000 to \$10,000 per day, for operating without a license. Any hospital that continues to operate without a license may be ordered by a Court of Common Pleas to stop operating upon petition by the Ohio Director of Health.

A hospital license would be valid for three years unless suspended or revoked. Applicants for a hospital license must: pay a fee; be certified under Title XVIII of the "Social Security Act," 42 U.S.C. 301, or accredited by a national accrediting organization approved by the Centers for Medicare & Medicaid Services; specify the number of beds for the hospital, including skilled nursing beds, long-term care beds, and special skilled nursing beds; and demonstrate the ability to comply with standards established in new rules related to the following:

- Maternity units;
- Newborn care nurseries; and
- Hospital services, including:
 - Pediatric intensive care;
 - Solid organ and bone marrow transplantation;
 - Stem cell harvesting and reinfusion;
 - Cardiac catheterization;
 - Open heart surgery;
 - Operation of linear accelerators;
 - Operation of cobalt radiation therapy units; and
 - Operation of gamma knives.

Hospitals may be inspected in order to receive a license; however, the inspection can be avoided if the applicant submits with the application a copy of the hospital's most recent on-site survey report from an accrediting body demonstrating that the hospital is in "deemed status." Still, at least once every 36 months, the Director of Health must inspect certain service lines of each licensed hospital, including the maternity unit, newborn care nursery, and units providing open heart surgery, pediatric intensive care, and solid organ and bone marrow transplants.

The Ohio Director of Health is also directed to adopt rules establishing standards and procedures for the hospital licensing system, including all of the following:

- Procedures for applying and renewing licenses;
- Procedures for transferring licenses;
- Procedures for inspections following complaints;
- Fees for initial applications, license renewals, and license transfers, as well as inspections;
- Standards and procedures for imposing civil penalties for certain violations;
- Standards and procedures for correcting violations;
- Standards and procedures for identifying, monitoring, managing, reporting, and reducing exposures to risk conditions, such as Legionella, including through the use of environmental facility assessments, the development of water management plans, and the use of disinfection measures;
- Standards and procedures for data reporting;
- Standards and procedures for emergency preparedness; and
- Standards and procedures for the provision of technical assistance

Each hospital licensed in Ohio will also be required to have a governing board to oversee the hospital's management, operation, and control. The governing board will be responsible for both of the following: (a) overseeing the appointment, reappointment, and assignment of privileges to medical staff and (b) establishing protocols for the admission and treatment of patients.

There are also provisions governing the transfer of a license in the event of a purchase and sale of a hospital. As currently drafted, within 30 days of the sale, the new owner must apply to the Ohio Director of Health for a license transfer.

Given the current draft's reliance on third party accreditation, we anticipate the standards and procedures developed by the Director of the Department of Health and the impact of licensure during transactions to create the most significant operational changes for

hospitals in Ohio.

Keep an eye out for more developments related to Ohio's hospital licensure proposal. Our [Health Care Innovation Industry Team](#) will be sure to post significant developments on this as it progresses, and our CivicPoint government relations team will also watch as this legislation unfolds in Columbus. In the meantime, visit our [Health Law Matters blog](#) for more insight into legal issues impacting the health care industry.

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